



Paris, 04 February 2021

## POLITICAL OPINION

### **on the implementation of Regulation (EC) No 1924/2006 of the European Parliament and of the Council of 20 December 2006 on nutrition and health claims made on foods**

- ① The Senate European Affairs Committee,
- ② Having regard to Article 114 of the Treaty on the Functioning of the European Union,
- ③ Having regard to Regulation (EC) No 1924/2006 of the European Parliament and of the Council of 20 December 2006 on nutrition and health claims made on foods,
- ④ Having regard to Regulation (EC) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers,
- ⑤ Having regard to Regulation (EU) No 432/2012 of the Commission of 16 May 2012 establishing a list of permitted health claims made on foods, other than those referring to the reduction of disease risk and to children's development and health,
- ⑥ Having regard to Regulation (EC) No 1047/2012 of the Commission of 8 November 2012 amending Regulation (EC) No 1924/2006 with regard to the list of nutrition claims,

- ⑦ Having regard to the Commission staff working document of 20 May 2020 summarising the evaluation of Regulation (EC) No 1924/2006 on nutrition and health claims made on foods with regard to nutrient profiles and health claims made on plants and their preparations and of the general regulatory framework for their use in foods, SWD(2020) 95 final,
- ⑧ Having regard to the Senate's European Resolution No 83 (2008-2009) on the draft regulation to establish nutrient profiles for food and Report No 336 (2008-2009) of 8 April 2009 from Mr. Jean Bizet, on behalf of the Senate's Economic Affairs Committee, on the draft regulation to establish nutrient profiles for food,
- ⑨ Having regard to Report No 727 (2017-2018) of 25 September 2018 by Mr. Joël Labbé, on behalf of the fact-finding mission on the development of herbalism and medicinal plants, sectors and professions of the future,
- ⑩ Whereas it is important to ensure the safety of consumers and the quality of the information provided to them, while at the same time promoting innovation;
- ⑪ Whereas a scientific basis is needed for nutrition or health claims on food;
- ⑫ Considers that Regulation (EC) No 1924/2006 of the European Parliament and of the Council of 20 December 2006 on nutrition and health claims made on foods remains valid in its globality and should be implemented in full;
- ⑬ Calls for better implementation of said regulation by making the use of a claim conditional upon a favourable nutrient profile, harmonising the rules pertaining to claims about plant-based products, integrating the latest scientific knowledge in nutrition and developing food education;

- ⑭ – *On establishing nutrient profiles*
- ⑮ Whereas Article 4(1) of Regulation (EC) No 1924/2006 requires the Commission to establish, not later than 19 January 2009 and through a comitology procedure, specific nutrient profiles that food or certain categories of food must respect before making nutritional or health claims, including possible exemptions;
- ⑯ Whereas, given the divergences of opinion between the Member States, these nutrient profiles could not be established;
- ⑰ Whereas Article 4(2) of Regulation (EU) No 1924/2006 provides that nutritional claims as to the reduction in fat, saturated fatty acids, trans-fatty acids, sugars and salt content can be allowed by way of derogation, even though the content is greater than that established by the nutrient profiles;
- ⑱ Whereas Article 4(2) of Regulation (EU) No 1924/2006 also provides that nutritional claims can be allowed in cases where the content of a particular nutrient exceeds the content in the nutrient profile as long as the mention "High ..." appears near the claim, on the same side and with the same visibility;
- ⑲ Whereas the presence of a claim on a product strongly encourages the consumer to buy;
- ⑳ Whereas making the authorisation to use claims conditional upon a favourable nutrient profile risks encouraging consumers to forego nutrients essential to the body's proper functioning, in particular certain fats;
- ㉑ Whereas making the authorisation to use claims conditional upon a favourable nutrient profile risks encouraging consumers to look for certain essential nutrients in heavily processed products where these nutrients have been added, at the expense of products of first-stage processing where the desired nutrients are present naturally, leading to a questioning of other health and environmental objectives of European public policies;
- ㉒ Judges that the establishment of nutrient profiles is essential to allow Regulation (EC) No 1924/2006 to reach its objective of ensuring a high level of consumer protection by preventing a food considered too high in fat, saturated fatty acids, trans-fatty acids, sugars and salt to carry a claim, and that this objective remains relevant;

- ②③ Asks for the establishment of nutrient profiles in accordance with Regulation (EC) No 1924/2006;
- ②④ Considers that these nutrient profiles must apply to a wide range of products and be easily understood by food sector operators;
- ②⑤ Recommends a transversal system that combines two complementary and non-compensatory scores, one corresponding to the recommended intake of a defined number of qualifying nutrients, and the other corresponding to limits not to be exceeded of a defined number of disqualifying nutrients;
- ②⑥ Asks that exemptions be provided, in accordance with Regulation (EC) No 1924/2006, to take into account scientific regulations pertaining to the consumption of certain nutrients;
- ②⑦ – *On claims pertaining to plants*
- ②⑧ Whereas Regulation (EC) No 1924/2006 must favour fair conditions of competition in the internal market;
- ②⑨ Whereas claims made about plant-based products are currently made with no scientific validation, which can mislead consumers;
- ③⑩ Whereas Regulation (EC) No 1924/2006 does not provide for an evaluation of the safety of the foods for which a claim is requested;
- ③⑪ Whereas the consequences to consumers' health can differ depending on the part of the plant used, how it is prepared, and its dosage;
- ③⑫ Whereas, in respect of the evaluation methods provided for in Regulation (EC) No 1924/2006 and the guidelines of the European Food Safety Authority (EFSA), no claim about plants can be allowed given the lack of sufficient clinical proof;
- ③⑬ Asks that a list of plants allowed for sale as a food supplement within the European Union be established;
- ③⑭ Asks that this list specify the part of the plant used, its method of preparation, and the maximum allowed dosage;
- ③⑮ Recommends that the possibility be studied of developing a specific evaluation procedure of the claims on plant-based products

to justify the claims on the basis of traditional usage but also including an evaluation of the safety of the food displaying the claim;

③⑥ – *On the evaluations of the EFSA*

③⑦ Whereas the investments that a claim application entails are significant for companies in the food sector, which are generally medium-sized businesses;

③⑧ Calls upon the EFSA to supplement its guidelines, taking into account the type of product for which the claim is applied and the expected impact on health;

③⑨ Hopes that the EFSA, in conditions ensuring its impartiality, can organise prior consultations that will allow it to present its expectations to food companies who wish to submit a claim application;

④① – *On the list of allowed nutritional claims*

④② Whereas there is a list of allowed nutritional claims that appears in the annex to Regulation No 1924/2006, marginally revised in 2012;

④③ Considers that this list should take into account scientific innovations and knowledge in the domain of foodstuffs and hopes that it will be updated regularly as a consequence;

④④ – *On educational policy in terms of food*

④⑤ Whereas food education of consumers is needed to allow them to best understand the information given to them;

④⑥ Whereas appropriations have been allocated in the Multiannual Financial Framework to the European Union's health programme for 2021-2027;

④⑦ Encourages the reinforcement of food education policies in schools;

④⑧ – *On the conditions for competition within Member States*

④⑨ Whereas differences exist in Member States' assessments of Regulation (EC) No 1924/2006, resulting in distortions of competition;

- ④⑨ Whereas generic descriptors are used to replace a claim that was not authorised;
- ⑤⑩ Whereas European legislation is ambiguous as to the conditions for using certain nutritional claims, such as the "sugar-free" claim defined differently in Regulations (EC) No 1924/2006 and (EC) No 1333/2008 of the European Parliament and the Council of 16 December 2008 on food additives;
- ⑤⑪ Calls on the European Commission to guarantee the conditions for fair competition between food producers throughout the entire internal market, in particular by taking a decision as quickly as possible on the authorisation to use generic descriptors and by ensuring that the conditions for using nutritional claims provided by Regulation (EC) No 1924/2006 are not open to challenge under any other European regulation;