

codex alimentarius commission



FOOD AND AGRICULTURE
ORGANIZATION
OF THE UNITED NATIONS

WORLD
HEALTH
ORGANIZATION



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AGENDA ITEM NO. 4

CX/FL 04/4

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JOINT FAO/WHO FOOD STANDARDS PROGRAMME

**CODEX COMMITTEE ON FOOD LABELLING
THIRTY-SECOND SESSION
MONTREAL, CANADA, MAY 10 - 14, 2004**

**DRAFT GUIDELINES FOR USE OF HEALTH AND NUTRITION CLAIMS
(CL 2003/28-FL)**

GOVERNMENT COMMENTS AT STEP 6

COMMENTS FROM:

**AUSTRALIA
BRAZIL
IRAN
MALAYSIA
NEW ZEALAND
SPAIN
SOUTH AFRICA
CONSUMERS INTERNATIONAL
INTERNATIONAL SPECIAL DIETARY FOODS INDUSTRY (ISDI)**

DRAFT GUIDELINES FOR USE OF HEALTH AND NUTRITION CLAIMS (CL 2003/28-FL)

GOVERNMENT COMMENTS AT STEP 6

AUSTRALIA:

Australia wishes to provide the following comments:

Advertising

Australia supports the amendment to paragraph 1.1 to extend the scope of the guidelines to include advertising. Australia notes that the Terms of Reference for the Codex Committee on Food Labelling include “to study problems associated with the advertisement of food with particular reference to claims and misleading description”. Therefore, Australia believes that these guidelines should apply to food advertising. In Australia health claims have been considered with regard to food labelling and food advertising. Australia’s food regulations prohibit an advertisement for food to contain any statement, information, design or representation where the same statement, information, design or representation is prohibited on the label of the food.

Australia does not have a preferred definition for advertising.

Health Claims

Australia supports paragraph 1.4 ‘Nutrition and health claims shall not be permitted for foods for infants and young children except where specifically provided for in the relevant Codex standards’. However, Australia believes that including the text ‘or national legislation’ will diminish the strength of the prohibition by allowing countries to deviate from the Codex position.

Australia supports paragraph 1.4 as being consistent with the requirements of the *WHO International Code of Marketing of Breast Milk Substitutes* by way of preventing the provision of information that could discourage breastfeeding. In comments to the Codex Committee on Nutrition and Foods for Special Dietary Uses, Australia has supported the proposed prohibition on health claims for Infant Formula (Step 5), and also proposed extending the prohibition in the draft standard to include nutrition function claims as defined by these draft Guidelines.

Australia supports paragraph 7.4.7 ‘a statement on the importance of maintaining a healthy diet’ if health claims are permitted.

BRAZIL:

Brazil has the pleasure to forward the following comments:

I. SCOPE

Section 1.1

To exclude the word “advertising”, but to include section 7.6 with the following sentence: **“The advertising of such foods should be in accordance with the wording used in the health claim”**.

Justification: The inclusion aims to guarantee that it is not included in the products advertisement claims different from those declared in the labels.

This suggestion was based on the item “d” of the CCFL Term of Reference and item 3.2 of the Codex Stan 146-1985: “Nothing in the labelling and advertising of foods to which this standard applies shall that advice from a qualified person is not needed”.

Section 1.4.

Brazil suggests to restate the sentence: “Nutrition and Health Claims shall not be permitted for foods for infants and young children except where specifically provided for in relevant Codex Standards or National legislation” **by:**

“Nutrition and Health Claims shall be permitted for foods for infants and young children where specifically provided for in relevant Codex Standards or National legislation”.

Section 4.1.

To include after “Nutrition Labelling” the following sentence: **“...or those nutrients which are mentioned in officially recognized dietary guidelines of the national authority having jurisdiction”**.

- The section should be written in the following way: “The only nutrition claim permitted shall be those relating to energy, protein, carbohydrate, and fat and components thereof, fiber, sodium and vitamins for which Nutrient Values (NVRs) have been laid down in the Codex Guidelines for Nutrition Labeling **or those nutrients which are mentioned in officially recognized dietary guidelines of the national authority having jurisdiction**”.

Justification: The revision keeps the coherence with item 7.1.6.

7. Health Claims

- to renumber the sections: 7.1.4; 7.1.5 and 7.1.6 **for** 7.1.3, 7.1.4 and 7.1.5, respectively.

- to renumber the sections: 7.5, 7.5.1, 7.5.2, 7.5.3, 7.5.4, 7.5.5, 7.5.6 and 7.5.7 **for** 7.4, 7.4.1, 7.4.2, 7.4.3, 7.4.4, 7.4.5, 7.4.6 and 7.4.7, respectively.

Brazil proposes the inclusion of the section 7.6: “The advertising of such foods should be in accordance with the wording used in the health claim”.

Justification:

The inclusion aims to guarantee that it is not included in the products advertisement claims different from those declared in the labels.

This suggestion was based on the item “d” of the CCFL Term of Reference and item 3.2 of the Codex Stan 146-1985: “Nothing in the labelling and advertising of foods to which this standard applies shall that advice from a qualified person is not needed”.

IRAN:

Health Claims as such are a highly contentious issue. The concept of "Health " is complex and not withstanding the fact that new "revelations" come to light on an almost daily basis, at any one time there exists a great difference of opinion on the matter among even internationally renowned scientific bodies.

The only general consensus seems to be that health as a whole is effected by many interacting factors including, but not exclusive to: diet, genetic make- up, degree of stress, pharmaceutical use, lifestyle, and environmental pollution.

All things considered, in all but a very limited scope of nutritional application, it would appear to be very difficult to scientifically substantiate the usual health claims of interest to the food industry and their products at the level of irrefutable proof necessary to meet codex guidelines.

MALAYSIA:

Malaysia is of the opinion that these Guidelines should not be advanced further from the present step until criteria for the scientific basis of health claims currently being deliberated by the Committee on Nutrition and Foods for Special Dietary Uses are developed.

In addition, Malaysia proposes the Guidelines be discussed further, incorporating the following comments:

PREAMBLE

Malaysia supports retention of the preamble in the box for the following reasons:

- 1) Countries may have different emphasis in their nutritional programs depending on food consumption patterns and health and nutritional problem. Claims should therefore be consistent with national priorities.
- 2) The need for sound and sufficient body of scientific evidence to substantiate claims cannot be overemphasized and we support the text as it stands.
- 3) It is important to emphasize that there should be continuous monitoring of consumers' behaviors and dietary patterns so that any major changes in these patterns can be recognized and necessary actions taken.
- 4) Although some of these points would be elaborated in other subsequent sections of the draft, it is important and essential to highlight these in the preamble.

SCOPE

Paragraph 1.1

Malaysia supports the proposal that these guidelines cover advertising. The sentence should read:

“ These guidelines relate to the use of nutrition and health claims in food labelling and advertisement”.

Rationale:

It is logical that advertisements too be given attention as these are very important channels for promoting food products and therefore claims should be truthful and accurate.

Paragraph 1.4

Malaysia proposes to delete the words “*Nutrition and*”. The sentence should read:

“~~Nutrition and~~ Health claims ~~shall not be~~ are not permitted for foods for infants and young children ~~except where~~ unless specifically provided for in relevant Codex standards ~~or~~ national legislation”.

Rationale:

Some nutrition claims could be permitted so as to provide nutrition information to the consumer. The current text implies that Nutrition Content Claims and Comparative Claims are also not permitted.

DEFINITIONS

General remark

Malaysia would like to draw attention to the new classification of the Draft Guidelines for the Use of Nutrition and Health Claims in Appendix IV, ALINORM 03/22A. Malaysia proposes that Nutrient Function Claims be a subgroup of Nutrition Claim. This has been the classification of Guidelines for Use of Nutrition Claims (CAC/GL 23-1997), which was adopted by the 22nd Session of the Codex Alimentarius Commission in 1997 and amended at its 24th Session in 2001.

The subgroup of Nutrient Function Claims thus is numbered 2.1.3. Health Claims would then follow to include in its category 2.2.1 Other Function Claims and 2.2.2 Reduction of Disease Risk Claims.

As for the rest of the document, the heading numbers should reflect the categorization used in the definition. Reorganizing and renumbering of other sections is also required. Current Section 5 (nutrient Content Claims) should be renumbered 4.1; current Section 6 (Comparative Claims) should be renumbered as 4.2.

A new sub-section 4.3 should be added for Nutrition Function Claims, in keeping with the proposal to place these claims under ‘Nutrition Claims’. Text for this could be taken from a previous version of Codex document on nutrition labelling and claims.

Current Section 7 (Health Claims) should be renumbered as subsection 5.

The Draft Guidelines should be organized as follows:

2. DEFINITIONS

2.1 ***Nutrition Claim*** means any representation which states, suggest or implies that a food..... The following do not constitute nutrition claims:

- (a)
- (b)
- (c)

2.1.1 ***Nutrient Content Claim*** is a nutrition claim that describes the level of a nutrient (Examples: “source of calcium”; “high in fibre”.....)

2.1.2 ***Nutrient Comparative Claim*** is a claim that compares the nutrient levels and/or (Examples: “reduced”; “less than”; “fewer”.....)

2.1.3 Nutrient Function Claim is a nutrition claim that describes the physiological role ...

Example:

“Nutrient A (naming a physiological role of nutrient A in the body.....”

2.2 **Health Claim** mean any representation that states, suggest or implies that a relationship
Health claims include the following:

2.2.1 **Other Function Claim** is a claim that concern specific beneficial effects of the Example:
“Substance A (naming the effect of substance A on improving.....”

2.2.2 **Reduction of Disease Risk Claim** is a claim relating the consumption of a food Examples:
“A healthful diet low in nutrient or substance A may reduce”

3. NUTRITION LABELLING

Any food for which a nutrition or health claim is made should be labeled with

4. NUTRITION CLAIMS

The only nutrition claims permitted shall be those relating to energy, protein, carbohydrate, and fat and component thereof, fibre, sodium and vitamins and minerals ...

4.1 Nutrient Content Claims

When a nutrient content claim that is listed in the Table to these Guidelines or

Where a food is by its nature low in or free of the nutrient that is the subject

4.2 Nutrient Comparative Claims

Comparative claims should be permitted subject to the following conditions and based on the food sold, according to the instructions for the use on the label:

- (a) The foods being compared should be different versions of the same food
- (b) A statement of the amount of difference in the energy value or nutrient content should... The following information should appear in close proximity.....:
 - (i) The amount of difference related to the same quantity, expressed as
 - (ii) The identity of the food(s) to which the food is being compared.
- (c) The comparison should be based on a relative difference of at least 25% in the
- (d) The use of the word “light” should follow the same criteria as for “reduced”

4.3 Nutrient Function Claims

Nutrient function claims describe the physiological role of the nutrient in growth, development and normal functions of the body.

5. HEALTH CLAIMS

5.1 Health claims should be permitted provided that all of the following conditions are met:

5.1.1 Health claims must be based on current relevant scientific substantiation and the level of proof must be sufficient to substantiate the type of claimed effect and the relationship to health as recognized.... The health claim must consist of two parts:

- i) Information on the physiological role of ~~the nutrient~~ a constituent of a food or an accepted diet-health relationship; followed by
- ii) Information on the composition of the product relevant to the physiological role ~~the nutrient~~ constituent of a food or the accepted diet-health relationship unless the

5.1.2 Any health claim must be accepted by or be acceptable to the

5.1.3 The claimed benefit should arise from the consumption of a reasonable

5.1.4 If the claimed benefit is attributed to a constituent in the food,:

- i) a source of or high in
- ii) low in, reduced in or free

Where applicable, the conditions for Nutrient Content Claims and Comparative Claims will be used to determine the levels for “high”, “low”, “reduced” and “free”.

5.1.5 Only those essential nutrients for which a Nutrient Reference Value (NRV)

5.2 Health claims should have a clear regulatory framework for qualifying and/or disqualifying conditions for eligibility to use the specific claim, including the ability of competent

5.3 If the claimed effect is attributed to a constituent of the food, there must be a validated method to quantify the food constituent that forms the basis of the claim.

NEW ZEALAND:

New Zealand supports progress on these draft guidelines.

Scope

New Zealand supports the position that advertising be covered within the scope of the guidelines for Use of Health and Nutrition Claims. This is consistent with the New Zealand regulatory environment where advertising (including supporting promotional material, media and print advertising) is covered by the standard for health claims. New Zealand believes that advertising, as well as label information, should be subject to the same guidelines in respect to claims regarding health and nutritional benefits.

The development of a definition for advertising is encouraged although the practical difficulties surrounding enforcement of advertising on the internet is difficult to manage.

Paragraph 7.1.6

Only those essential nutrients for which a Nutrient Reference Value (NRV) has been established in the Codex Guidelines on Nutrition Labelling or those nutrients which are mentioned in officially recognised dietary guidelines of the national authority having jurisdiction, would be subject to the

nutrient function claim. New Zealand would support a recommendation to the CCNFSDU to review the current list of recognised NRVs for labelling purposes to take account of scientific developments.

SPAIN:

The Kingdom of Spain would like to make the following comments to the Spanish version:

1. Title of the Standard

Should be changed to say: “*Proyecto de Directrices para el uso de declaraciones de propiedades nutricionales y saludables*” [Applies to the Spanish text only].

2. Scope

Point 1.1. should be changed to say: These guidelines relate to the use of nutrition and health claims in food labelling, presentation and advertising.

Point 1.2. should be changed to say: These guidelines apply to all foods for which nutrition and health claims are made without prejudice to specific provisions under Codex standards or Guidelines relating to Foods for Special Dietary Uses, Foods for Special Medical Purposes and dietetic compounds for highly hypocaloric or weight loss regimes.

Point 1.2. should be redrafted as follows: Nutrition and health claims shall not be permitted in foods for lactating infants or young children except where specifically provided for in relevant Codex standards or National Legislation.

Nevertheless, we are of the opinion that, aside from mentioning foods for lactating infants or young children, all other dietetic foods with specific standards should also be included as the use of Nutrition or Health claims in these Foods could be misleading with those other compulsory indications to inform the nutritional purpose for which they are destined.

3. Point 2. Definitions

In point 2.1 we propose to substitute the expression: “any representation which states, ...” by any indication which states, ...”.

In point 2.1.2. Nutrient comparative claim. This definition should be completed, indicating that it should comply with the conditions indicated in point 6 of these guidelines, since that way the definition will take into account that any comparison between two or more must take place between similar foods. Therefore this point would read as follows: “2.1.2. Nutrient comparative claim is a claim that compares the nutrient levels and/or energy value of two or more foods according to Point 6, Comparative claims, of these guidelines ”.

In point 2.2.2. Other Function Claims. The undefined term “constituent” has been included in this point; guidelines should be established to define or classify which foods, based on their constituents, can be the subject of health claims because constituents are substances (with a defined chemical composition) different from nutrients which, not being defined or having set limits for its physiological functions, can lead to the “medical perception” of the food.

On the other hand, in the last line, the term “or modifying” must be eliminated as the concept they address, of health modification, can be understood as meaning that “**bad health**” can be

improved through the consumption of a food or nutrient, and this may implicitly mean that a cure of a pathological state is taking place, which would be against the principle established in the European Union of not attributing to foods the capacity to cure human diseases.

Regarding this subject, the same text of the proposed draft, in point 8.5, indicates that “Foods should not be described as “healthy” or be represented in a manner that implies that a food in and of itself will impart health.”

In point 2.2.3. “Reduction of disease risk claims”. We propose eliminating this point as these claims should not be accepted due to several reasons, such as the fact that they should be objectively demonstrable and capable of being evaluated and demanded when, on the other hand, the consumption of a food by a given individual may not really result in this effective reduction due to other external factors which, on the contrary, are many times the determining factors in the outbreak of the disease and that advise to specific population groups with special health conditions must be made by medical professionals.

Regarding the use of the term “constituents” in this point, we have the same comments indicated for point 2.2.2.

4. Point 7. Health claims

In Point 7.1.1. It should be clearly specified that health claims must be based on scientific knowledge supported by well recognized International Organizations.

In indent 1). We propose to eliminate the sentence “or an accepted the diet-health relationship” as we are starting from the basis of a balanced and healthy diet, and health claims must be an added value for the food but not the diet.

In indent 2). The expression “or a recognized relationshipof the food” should be eliminated.

In Point 7.1.2. The expression “or recognized as acceptable” must be eliminated, as the text in the preamble already specifies that the content of these claims must be in agreement with national policies.

Point 7.1.4. Must be substituted by Point 7.1.3. expression “or one of its food constituent within the context of the total diet” must be eliminated, as the claims refer to foods based on their nutrient content and not to isolated nutrients.

Point 7.1.5. Must be substituted by Point 7.1.4., and in the text the word “constituent” must be replaced by “nutrient” as no Nutrient Reference Value (NRV) has been established for any constituents of foods other than nutrients, and the word “must” in front of the colon should also be eliminated

Point 7.1.6. Must be renumbered as point 7.1.5.

Points 7.2., 7.3., 7.5. and 7.5.1. to 7.5.7 must be substituted by points 7.4 and 7.4.1. to 7.4.7.

In points 7.2, 7.3, and 7.4.1. The term “constituents” should be changed by “nutrients” as the text uses, with the same meaning, the terms “nutrient” and “constituent”. If the constituent is different from the nutrient, but forms part of the food, it should be determined which are the constituents that, due to their physiological function and the amount provided by the food to the daily diet, are susceptible to having health claims applied.

5. Addenda

A Point should be added in the draft text to include the express prohibition of claims making reference, for example, to medical advice or to advice from other health professionals or their professional associations and even to effects proven on specific persons through pictures or similar representations. For example, a person that suffered from alopecia and that, through the consumption of the food, is shown with a wonderful full head of hair.

SOUTH AFRICA:

1. **Scope**

1.1 South Africa supports the addition of the words “and advertising ” and also supports the wider application of advertising as it is reflected in the following definition:

“Advertisement” in relation to any food means any written, pictorial, visual or other descriptive matter or verbal statement, communication, representation or reference-

- (a) appearing in a newspaper or other publication; or
- (b) distribution to members of the public; or
- (c) brought to the notice of members of the public in any manner, and which is intended to promote the sale or encourage the use of such food; and “advertise” has a corresponding meaning.

In 7.1.1 (1) “Information on the physiological role of the nutrient or on an accepted diet-health relationship;” reference is made to nutrient only whereas it should have read “**nutrient or food constituent**” in order to be in line with the text under 2.2.2 Other function claims: “These claims concern specific beneficial effects of the consumption of **foods or their constituents**, in the context of the total diet on normal functions or biological activities of the body. Such claims relate to a positive contribution to health or to the improvement of a function or to modifying or preserving health.”

The recommended wording of 7.1.1 (1) should then read as follows: “Information on the physiological role of the nutrient **or food constituent** or on an accepted diet-health relationship;”

Motivation: Health claims are not allowed for nutrients only but for other food constituents/substances as well.

South Africa recognized this omission during the report back session on Friday (2 May 2003) of the CCFL meeting, by which time it was too late to amend the text.

CONSUMERS INTERNATIONAL:

Consumers International (CI) appreciates the opportunity to comment on the latest Draft of the Guidelines for Use of Nutrition and Health Claims.

In general we support the approach set out in the document, but would particularly like to highlight the following points.

- We support the boxed text at the beginning of the draft guidelines referring to the importance of health claims being consistent with national health policy, including nutrition policy and that they should support such policies where applicable; emphasising the importance of scientific evidence to substantiate the claim; consumer education; and the need for the impact of health claims on consumers' eating behaviours and dietary patterns to be monitored.
- We support the proposed restriction on claims for foods for infants and young children except where specifically provided for in relevant Codex standards or national legislation (paragraph 1.4).
- We support paragraph 2.2 which ensures implied claims are also included as 'health claims' – 'any representation that states, suggests, or implies that a relationship exists between a food or constituent of that food and health.' It is often these representations, including for example the style of packaging or use of brand names that can imply a health benefit and therefore have the potential to mislead consumers unless they are controlled.
- We are concerned that paragraph 6.4 under 'Comparative Claims' would allow 'light' to mean 'reduced'. To avoid the likely possibility for misinterpretation and confusion among consumers, we think that it should only mean the same as 'low'.
- With reference to paragraph 7.1.1, which sets out that the health claim must consist of two parts, we consider that this will not necessarily avoid consumer confusion or the potential for claims to mislead. It is important that the claim is presented in the way that is most meaningful and understandable to consumers. It is essential that the claim can be scientifically substantiated and does not mislead consumers. The specific wording of the claim must also be considered when determining whether this is the case and whether the claim can be permitted. .
- We consider that a mandatory prior approval system is essential to ensure that a claim is not misleading and that it can be scientifically substantiated.
- We support the wording in paragraph 7.1.2, which states that any health claim must be accepted by or acceptable to the competent authorities of the country where the product is sold.
- We strongly support paragraph 7.2. This section, as we understand it, would allow for the establishment of nutrition profiles i.e. how much fat, sugar and salt a product making a health claim can contain. We are concerned that products are on the market claiming to have health benefits, when they may be high in fat, sugar and/or salt and therefore contradict well-established healthy eating advice. We suggest strengthening this section by adding specific reference to nutrition profiles and the need for such restrictions.

INTERNATIONAL SPECIAL DIETARY FOODS INDUSTRY (ISDI)

Current Text	ISDI proposed wording
1.4 Nutrition and health claims shall not be permitted for foods for infants and young children except where specifically provided for in relevant Codex standards or national legislation.	1.4 Nutrition and health claims shall not be permitted for foods for infants and young children except where specifically provided for in relevant Codex standards or national legislation. where they have been demonstrated in rigorous studies with adequate scientific standards, and where they are accepted by or acceptable to the competent authorities

	of the country where the product is sold, as required by Section 7.1.2 of these Guidelines.
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If the wording of Section 1.4 were approved by CCFL this would mean that for practically all products that have been specially developed for infants and young children from 0-36 months, nutrition and health claims would no longer be allowed to be used, unless this has been specifically provided for by the Codex product standards or national legislation. The situation at present is such that for all products for children from 0-36 months, (with the exception in Europe of infant formulas intended for children from 0-6 months), *nothing specific is provided for* by the Codex Commodity Standard¹ or in most national legislation with regard to nutrition and health claims.

ISDI strongly urges that the discussions on section 1.4 be reopened and that the text be modified to ensure that claims on products for infants and young children when they are scientifically substantiated can be used to provide parents and caregivers with important information about the nutritional aspects of such products.

RATIONAL

a. Claims have a useful function

Nutrition and health claims offer parents relevant information about the composition and properties of products that are specially developed for infants and young children.

Foods for infants and young children are specifically designed to satisfy all the strict legal requirements applying to them with regard to composition and contaminants. Through the ban of claims on these products, relevant information is being withheld from parents of young children. It has been manufacturer's experience that parents need information because they choose products for their young children with care. The final consumer (the young child) and its parents therefore do not benefit from a ban on claims.

b. There are no grounds for this ban

ISDI is not aware of any study showing that parents of infants and young children are more readily persuaded by nutrition or health claims than other adults. ISDI is also not aware of any nutrition-based rational for such restrictions. There is, therefore, no reason to submit claims on products for infants and young children to different criteria than the claims on other foods.

Claims that are scientifically substantiated, appropriate and are expressed in a manner that is understood by and is not misleading to the parent or caregiver should be allowed on products for infants and young children, with the substantiation validated through independent scientific review. This was also expressed by the European Scientific Committee on Food in its *Report on the Revision of Essential Requirements of Infant Formulae and Follow-on Formulae*².

c. It means a ban on claims lasting many years

In the current legal situation, the adoption of such wording would mean a ban on claims lasting many years on practically all products for children from 0 – 3 years while work is undertaken to add provisions for claims to the existing Codex Standards or to national legislation. Indeed, experience has shown that it takes years before Commodity Standards are revised by the Codex Committee on

¹ Infant formula (CODEX STAN 72-1981, Canned baby foods (CODEX STAN 73-1981), Processed cereal-based foods for infants and children (CODE STAN 74-1981), Follow-up formula (CODEX STAN 156-1987), Formulated supplementary foods for older infants (CAC/GL 08-1991), Labelling of and claims for foods for special medical purposes (CODEX STAN 180-1991)

² SCF/CS/NUT/IF/65 Final 18th May 2003

Nutrition and Foods for Special Dietary Uses (CCNFSDU). Adaptation of the National legislation can take place quicker, but manufacturers would have problems exporting their products. The implications are significant, as it would not only restrict or forbid claims on infant formula, but would also extend to all follow-on formulas, fruit snacks, biscuits, cereals, meals, juices and other products specifically formulated and marketed for this age group.

d. Claims assure appropriate nutritional use

An increasing number of products on the market are aimed at children above 3 years of age. These products can bear claims and would not fall under the ban because no age group indication is stated on the label. According to a recent survey, the consumption of those products by infants and young children was found to be considerable (TNO, 2002).

In order to assure appropriate nutritional use of products aimed at infants and children, it is essential that nutrition and health claims in accordance with the Codex Guidelines for Use of Nutrition and Health Claims are authorised for all products targetting infants, young and older children. Indeed, if the ban was enforced, this would result in a disadvantageous competitive position for products specifically designed for infants and young children and could lead to an improper use of some products (e.g. the consumption of products by infants for which they are still too young).

Finally, the restrictions would result in a double penalty because these foods are often the result of significant Research & Development efforts needed to bring these age-specific products on the market.