

COMMENT
on

DRAFT COMMISSION REGULATION ON NUTRITION CLAIMS

**Revised Wordings
for Claims on
Omega-3 Fatty Acids**

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The proposed regulation for nutrition claims about omega-3 fatty acids is both welcome and timely.

Omega-3 fatty acids (O3s) are essential for human health, most people in Europe eat too few of them, in consequence they suffer mental as well as physical problems, so consumers need guidance about product composition to help them increase their intakes.

Furthermore, vague claims about omega-3s have proliferated in the marketplace. They exploit a generalised consumer awareness that O3s are beneficial. But current commercial claims cover (1) different types of O3s with different health effects, and (2) different dosages. This unregulated competition is unfair to both producers and consumers.

For producers, responsible manufacturers, adding effective amounts of expensive marine O3s and being undermined by competitors using small amounts of cheap and ineffective plant O3s.

For consumers, the net effect is, first, confusion among a cacophony of unclear claims, which require background knowledge and a reading of the small print to understand. More importantly, consumers are being misled about the benefits of buying a particular product.

For both these sets of reasons, it is good that the Commission is proposing a regulation, in time for inclusion in the Annex.

HOWEVER

The proposed regulation will not solve either of these problems. Indeed, it will perpetuate them. And worse, it will give misleading claims a patina of legitimacy. The proposal needs amending.

There are two issues that need addressing: (1) the inclusion of plant-derived alpha-linolenic acid (ALA) in the regulation; and (2) the minimum content of O3s a product must have to justify a claim.

(1) Plant-derived ALA: the draft combines two criteria to justify nutrition claims about O3s --- allowing manufacturers to include either plant-derived ALA or marine-derived EPA/DHA.

However, all the demonstrated health benefits of O3s are based on studies done with EPA/DHA. The ability of human beings to convert ALA into EPA is extremely limited and for DHA as good as

non-existent. To obtain the health benefits of O3s the EPA/DHA must be included in products in a pre-formed state.

Therefore, allowing manufacturers to make omega-3 claims based on the inclusion of ALA alone will mislead consumers about the health benefits they will receive from buying the product.

The proposal should be amended to eliminate all reference to ALA in both the "Source" and "High" claims.

(2) Minimum Content: the draft regulation allows manufacturers to make a "Source" claim after including only 30mg of EPA/DHA in a product, and a "High" claim after adding only 60mg.

Given the established rules governing the minimum requirements to justify any "Source" claim (15% of desirable intakes) and any "High" claim (30% of desirable intakes), the draft regulation effectively sets the desirable intake for EPA/DHA at 200mg/day. This is too low.

There are, of course, numerous recommendations about EPA/DHA intakes by different authorities. They are highly variable, by a factor of over five.

At the low end, the target is only 200mg/day. At the high end, the desirable intake is 1100 mg/day. The average of currently applicable recommendations is about 550mg/day.

Effectively, the Commission is basing its draft regulation on the lowest possible definition of adequacy.

The practical outcome is that it would be possible to make impressive-sounding claims on products that will deliver only small amounts of EPA/DHA to consumers. In the case of products eaten in small amounts, the contribution would be worse than small, it would be trivial. A real world example is O3-fortified fat spreads.

Therefore, the amounts specified in the draft regulation would not offer protection or benefits to consumers. They would not even offer protection to responsible manufacturers. They would certainly not make a significant contribution to improving the health of the European population.

The minimum content requirement for both claims needs to be raised. The easiest way to do this is by raising the implied standard of desirable intakes.

The Commission could achieve this --- with ample scientific justification --- by accepting the average of the current recommendations as its definition of desirable intakes.

That is, it should accept 550mg/day as its target. The minimum content to justify a "Source" claim would then be 82.5mg. The minimum content to justify a "High" claim would be 165mg.

In conclusion, the Commission is right to propose regulations for nutrition claims for O3s. And it is right to proceed swiftly.

But the draft regulation would legitimate strong-sounding claims on products containing small amounts of cheap and ineffective plant-derived O3s.

The present wording would not achieve your objectives. It would institutionalise unfair competition between manufacturers. It would mislead consumers. It would not improve public health.

The Commission knows better than anyone the effort required to change European legislation once it is established. So, it is essential to get the rules-of-the-game right at this point.

Thus, the Commission needs to amend the wording of the draft O3 claims. This comment proposes two concrete means for doing so.