

# **Regulatory Threats from Europe**

## **Briefing Note for Policy Makers, July 2011**



### **Consumers & retailers need your support!**

#### **The Food Supplements Directive**

The Directive, which became European law in 2002, provides detailed regulation for composition, labelling and marketing of food supplements (currently vitamins and minerals, but with other categories likely to be included in the future). The next stage of the implementation of the legislation will be the setting of maximum permitted levels for vitamins and minerals in supplements.

#### **The Threat**

The European Commission will shortly publish proposals for what those maximum permitted levels should be. The Commission is under pressure from other Member States to set much lower levels than those which are currently permitted in the United Kingdom. This risks the loss to the UK market of many hundreds of safe and popular higher potency supplements.

Robust industry assessments suggest this would substantially impact upon the profitability of specialist manufacturers and risk the loss of 4,000 retail jobs through the closure of 700 independent health food stores, delivering a major blow to the sector, to high streets around the country and to consumer choice. These impact assessments have been confirmed by the FSA, BIS and DEFRA as providing a valuable contribution in assessing the impact upon small business.

Successive Ministers have pledged to work in Europe to maintain consumer choice and avoid the loss of safe and popular products to the UK Market, but there is little evidence that officials of the Food Standards Agency, who negotiate for the UK in Europe, have had much success in persuading other Member States to accept the UK's lighter touch, more proportionate approach.

We need a solution to allow:

- The highest possible permitted levels for vitamins and minerals to be set on the basis of safety
- Provision of appropriate information to consumers

#### **Action Arising**

We are asking UK Parliamentarians to encourage the Health Ministers to pursue the UK's objectives for this legislation much more robustly in Europe than their predecessors did, and, specifically, to intervene at political level with the Commission and other Member States to promote a more proportionate approach to the interpretation of the legislation.

We are asking European Parliamentarians to write to the relevant Commissioner, John Dalli, requesting that he ensures that safe and popular higher potency

food supplements remain easily available to consumers.

#### **Nutrition & Health Claims Regulation**

This very wide-ranging Regulation requires the pre-authorization of all labelling, marketing and advertising health claims relating to food products. The Regulation specified different types of claim involving different approaches to submission and approval. Well accepted claims on the UK market were submitted via the Food Standards Agency (FSA) to the EC.

#### **The Threat**

Health food products rely on straightforward, scientifically-substantiated health claims to inform and empower British consumers. The FSA conducted their initial impact assessment on the basis that "most claims" were expected to be authorised on the basis that they were "generally accepted claims". This has proved to be highly misleading.

There now remains an extraordinary threat that was not foreseen in the text of the Regulation.

The European Food Safety Authority (EFSA) is failing to distinguish between different types of claim and is applying an inappropriate (pharmaceutical rather than food) standard in assessing the scientific evidence submitted for well accepted claims. There is a strong level of unanimity within the scientific community that agrees that the EFSA model is inappropriate. Already EFSA has delivered nearly all its opinions, which indicate that circa 95% of claims are likely to be prohibited with devastating consequences for the food supplement industry and its millions of consumers.

The EU industry commissioned an Impact Assessment from a renowned EU economist to look into the economic impact of the legislation.

The recently published findings confirmed the dire impact of the current approach. It shows that the non-vitamins and minerals section of the EU market for food supplements may decrease in size thereby losing around €242 million p.a. in gross profitability and incurring €291 million of cost penalties. Over 13,000 jobs are forecast to be lost amongst product suppliers, barriers to entry are expected to increase and the viability of many businesses (notably SMEs) will be threatened. Consumers will also lose out from reduced choice and higher prices, and therefore be driven to unregulated sources of supply.

#### **Action Arising**

We are asking UK and European Parliamentarians to intervene urgently in Europe to ensure a detailed review of the Article 13.1 process.