COMMISSION REGULATION (EU) 2022/709

of 6 May 2022

refusing to authorise a health claim made on foods and referring to children's development and health

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

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 ([1]), and in particular Article 17(3) thereof,

Whereas:

(1) Pursuant to Regulation (EC) No 1924/2006 health claims made on foods are prohibited unless they are authorised by the Commission in accordance with that Regulation and are included in a list of permitted claims.

(2) Regulation (EC) No 1924/2006 also provides that applications for authorisations of health claims may be submitted by food business operators to the national competent authority of a Member State. The national competent authority is to forward valid applications to the European Food Safety Authority ('the Authority').

(3) Following the receipt of an application, the Authority is to inform without delay the other Member States and the Commission, and to deliver an opinion on the health claim concerned.

(4) The Commission is to decide on the authorisation of the health claim taking into account the opinion delivered by the Authority.

(5) Following an application from H.J. Heinz Supply Chain Europe BV, submitted pursuant to Article 14(1), point (b), of Regulation (EC) No 1924/2006, the Authority was required to deliver an opinion on a health claim related to Nutrimune and immune defence against pathogens in the gastrointestinal and upper respiratory tracts (Question No EFSA-Q-2018-00727). The claim proposed by the applicant was worded as follows: 'Nutrimune supports the immune system in defence against pathogens in the upper respiratory and gastrointestinal tracts of young children'.

(6) On 15 April 2019, the Commission and the Member States received the scientific opinion from the Authority ([2]) which concluded that, on the basis of the data presented, the scientific evidence is insufficient to establish a cause and effect relationship between the consumption of Nutrimune, a pasteurised cow's skimmed milk fermented with *Lactobacillus paracasei* CBA L74), and the immune defence against pathogens in the gastrointestinal and upper respiratory tracts of young children. Accordingly, as the claim does not comply with the requirements of Regulation (EC) No 1924/2006, it should not be authorised.

(7) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS REGULATION:

Article 1

The health claim listed in the Annex to this Regulation shall not be included in the Union list of permitted claims as provided for in Article 14(1) of Regulation (EC) No 1924/2006.

([1]) OJ L 404, 30.12.2006, p. 9.
([2]) *EFSA Journal* 2019;17(4):5656.

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 6 May 2022.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX

Rejected health claim

Application – Relevant provisions of Regulation (EC) No 1924/2006	Nutrient, substance, food or food category	Claim	EFSA opinion reference
Article 14(1), point (b), health claim referring to children's development and health	Nutrimune (a pasteurised cow's skimmed milk fermented with *Lactobacillus paracasei* CBA L74)	Nutrimune supports the immune system in defence against pathogens in the upper respiratory and gastrointestinal tracts of young children	Q-2018-00727