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For Your Information: July 30, 2004

Related Documents:

FTC Staff Provides FDA with Comment on Permitting Health Claims for More Foods

Agency Encouraged to Revise Regulations to Allow More Accurate Health-Related Information for Consumers

The U.S. Food and Drug Administration (FDA) recently sought comment from the public concerning expanding the use of health claims for certain foods. A health claim describes the relationship between a positive nutrient in a food and a beneficial effect on a disease or health condition. The FDA specifically sought comment on allowing health claims for foods that have a relatively small amount of a positive nutrient and on permitting health claims for foods that have both a positive nutrient and a problematic nutrient. In response to this request, the Federal Trade Commission's Bureau of Consumer Protection, Bureau of Economics, and Office of Policy Planning filed a comment encouraging the FDA to consider allowing truthful, non-misleading health claims for more foods.

Comments of the Staff Bureau of Consumer Protection, the Bureau of Economics, and the Office of Policy Planning of the Federal Trade Commission, Bureau of Consumer Protection, Bureau of Economics, and Office of Policy Planning in the Matter of Request for Comments on Nutrient General Principles; Health Claims, General Requirements for Individual Health Claims; Reopening the Comment Period, Nos. 1994P-0390 and V0401 (July 2004) V0401

Permitting such claims, according to the FTC staff, would "help consumers make informed dietary choices and . . . promote competition among manufacturers to develop and market healthier food products." The FTC staff recommended that the FDA make its regulatory decisions consistent with the results of consumer research on ways that health claims may be made for foods without deceiving consumers.

● Text of the Staff Comment [PDF 902KB]

As detailed in the staff's comment, which can be found on the FTC's Web site as a link to this press release:

- In addition to the minimum nutrient contribution requirement that is a requisite for health claims, the FDA should consider allowing health claims for foods that satisfy a nutrient density standard. This would allow health claims for some foods that are currently precluded but contribute significantly to a healthy diet. The FDA also should consider health claims on a case-by-case basis for foods that do not meet either the minimum nutrient contribution requirement or a nutrient density standard, if such claims could help consumers make decisions about healthier substitutes for foods in their diets.
- The FDA should conduct consumer research to determine whether consumers take away from health claims for foods with a problematic nutrient the claim that the food is healthful in all respects. If consumers take away such a claim, then the FDA should consider mandating the use of disclosures to address the claim consistent with the results of consumer research on ways to provide qualifying information that prevents consumers from being misled. Proper disclosures would allow consumers to receive truthful, non-misleading information to aid them in selecting foods for their diets.
- The FDA should allow the use of truthful and non-misleading synonyms for words that the agency has previously defined in terms of nutrient content claims.

In concluding its comment, the FTC's staff wrote, "We support the FDA's ongoing efforts to develop an empirically based approach to health claims for food products and to assess the costs and benefits of alternatives to the current regulations' reliance on potentially over-exclusive minimum and maximum requirements for making health claims on food labels."

"Revising its regulations to allow food marketers to provide greater and more accurate health-related information will assist consumers in selecting from a wider range of foods as they attempt to construct healthful diets."

The Commission vote authorizing the staff to provide the comments to the FDA was 5-0. (FTC File No. V040020; the staff contacts are Thomas B. Pahl, Bureau of Consumer Protection, 202-326-

94P-0390

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2128, and Maureen K. Ohlhausen, Office of Policy Planning, 202-326-2632.)

Copies of the documents mentioned in this release are available from the FTC's Web site at <http://www.ftc.gov> and also from the FTC's Consumer Response Center, Room 130, 600 Pennsylvania Avenue, N.W., Washington, DC 20580. Call toll-free: 1-877-FTC-HELP.

MEDIA CONTACT:

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(FTC File No. V040020)

(<http://www.ftc.gov/opa/2004/07/fdacomment.htm>)

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