

The implementation of (the) Regulation (EC) No. 1924/2006 on nutrition and health claims made on foods at the food and drink industry

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1. Introduction

Food supplements and functional food manufacturers use nutrition and health claims as an important marketing tool, which is paramount for revenue development. Consequently, the provisions of the Health Claims Regulation have far-reaching consequences for this entire industry. The main objective of this study was to evaluate the practical implementation of the "Health Claims Regulation" in the German food and beverage industry. So, scientific cooperation with the German Association of Dietary Supplements (NEM e. V.) and the Federal Office of Consumer Protection and Food Safety - Germany (BVL) was initiated. The measures companies have taken, the influence on product development and the assessment of the health claims regulation should be investigated. Using the following empirical business surveys a scientifically founded information acquisition to the Health Claims Regulation was assured.

2. Methods

Two surveys were realized from May to September 2009 and all in all 65 companies participated in it. So, 31 food companies were interviewed, which making suggestions for Health Claims to the Consumer Protection and Food Safety - Germany (BVL). A further 34 member companies of the German Association of Dietary Supplements were asked about the regulation.

A nine page questionnaire was used for the data collection, comprising of 19 questions. Before it was sent to the companies, they were classified by size and primarily manufactured products. Mainly these were medium-sized enterprises, which produce additives, vitamins, dietary supplements and dietary foods.

The questions were about:

- the measures taken by the food and beverage industry since the Health Claims Regulation came into effect
- the regulation's influence on product development
- measures which cause costs
- company assessment of nutrient profiles regarding the use of nutrition and health claims and the risk of classification into "good" and "bad" food
- the positive and negative aspects of the Health Claims Regulation
- company planning regarding the Health Claims Regulation

The analysis of the interviews were conducted using statistics and analysis software SPSS 17.0. Due to the fact that the variables have a nominal level of measurement, a descriptive analysis of the variables by the absolute and relative frequency count was undertaken. In this context, quantitative data and empirical statements were generated. Accordingly, the findings of this study represents a descriptive analysis of past experience of German food business with the Health Claims Regulation.

3. Results

The majority of firms in both surveys responded actively to the Health Claims Regulation. About 90% of the companies which submitted proposals for Claims to the Federal Office of Consumer Protection and Food Safety – Germany (BVL) and 68% of the member companies of the German Association of Dietary Supplements (NEM e. V.) had taken several measures.

The most companies have adapted their packaging to the regulation and carried out additional nutritional analysis. These were aimed primarily at ensuring that the products remain marketable. Figure 2 shows the percentage distribution of the measures taken by the surveyed companies. The regulation caused costs at 75% of the "BVL companies" and 68% of the member companies of the NEM e. V. The companies had mainly expenses for personnel overhead such as for searching for scientific publications and using external legal advice (Figure 3).

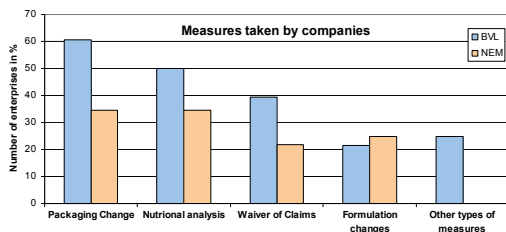


Figure 2. The plot shows the percentage distribution of the measures taken by the surveyed companies.

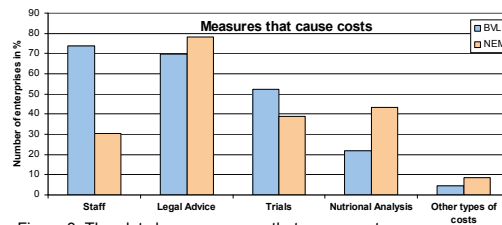


Figure 3. The plot shows measures that cause costs.

If a company wants to label their products with nutrition or health claims, then the foods have to correspond to several criteria regarding their specific nutrient composition. These criteria are so-called nutrient profiles and include maximum levels of salt, fat and sugar. About a third of the companies declare that the planned nutrient profiles divide foods into both good and bad (Figure 4). But more than a third of the surveyed firms do not share this fear. The majority of companies quoted, that the uniform rules harmonize free trade of food within the European Union and ensure a fair competition between companies (Figure 5).

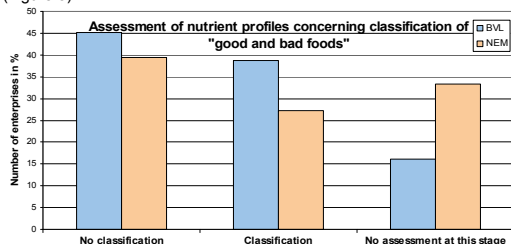


Figure 4. Assessment of nutrient profiles concerning classification of "good and bad foods".

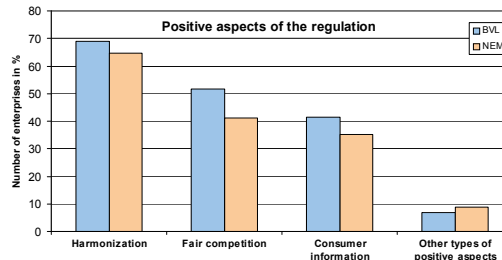


Figure 5. Positive aspects of the regulation.

4. Conclusions

The surveys show that the German food producers have responded to the effects of the Health Claims Regulation, but still have problems with the implementation of the regulation. The provisions of the Regulation and the still partly unpublished Community list of permitted health claims result for most companies that the legal uncertainty shall increase instead of the targeted legal certainty. These shall lead to a problem with the medium sized companies who don't have legal departments to depend on the expensive legal expertise. In addition, high scientific evidence is required which constitutes the majority of medium-sized companies which provides them an excessively large hurdle on the way to a successful approval of health claims. The decision on the introduction of new products significantly depends on the legal framework [1]. Thus, excessive legal requirements of EU legislation can lead to rising launches of food products in non-EU countries instead of the EU. This should be considered critical, because food from the EU is losing market share to products from countries such as Brazil, Canada and Australia.[2] In that regard, the results of this study give first indications that the objectives of promoting innovation, legal certainty and fair competition for the companies within the EU is difficult to achieve with present requirements of the Health Claims Regulation. To assess these developments finally and to explore possibilities for countermeasures, further follow-up studies are necessary. However, consumers can now assume that the nutrition and health claims on food packaging and in advertising are scientifically proven and thus are true.

5. References

- [1] Similarly to the British agricultural and food economist Graham Brookes at the Fresenius Conference, Darmstadt, 18./19.10.2007, <http://www.foodaktuell.ch/nachrichten.php?art=805>
- [2] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - A better functioning food supply chain in Europe, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2009:0591:FIN:en:pdf>