Department of Health

BULLETIN INTENDED FOR INTERESTED PARTIES

Update from the European Commission's Working Group meeting on Foods for Specific Groups, 30 October 2013

Further to our update of 13 September 2013, the European Commission held its second technical working group meeting on Foods for Specific Groups with Member States (MS) on 30 October. A document summarising the issues for discussion was circulated to MS by the Commission shortly before the meeting.

The document focusses on an issue related to the delegated act (DA) that the Commission aims to adopt on:

- Infant Formulae (IF) and Follow-on Formulae (FOF)

Overall, for most of the issues discussed in the paper there was general support for transferring the current rules under Directive 2006/141/EC to the new Delegated Act. The meeting also considered the applicability of provisions under the new general labelling rules of the Food Information to Consumer Regulation (FIC) (Regulation (EU No 1169/2011).

1.Nutrition labelling requirements for infant formulae and follow-on formulae

i) "As sold" vs. "ready for use"

Q1. Should nutrition labelling on infant formulae and follow-on formulae be based on "ready to use" or "as sold"?

Article 13 of Directive 2006/141/EC foresees that all nutrition information on infant formulae and follow-on formulae has to be expressed in numerical form, per 100ml of the product "ready for use".

Article 31(3) of the FIC Regulation foresees that provision of nutrition information is based on the food "as sold". However, where appropriate, this can be substituted by information on the food after preparation, provided that sufficiently detailed preparation instructions are given.

In the case of IF and FOF, there was general support amongst MS that it would be appropriate to continue requiring that the provision of nutrition information is based on the product "ready for

use", in order to ensure adequate consumer information and facilitate comparisons of products (since in certain cases they are sold in powder form and in other cases in liquid).

There was also some support for providing nutrition labelling information on infant formulae and follow-on formulae (e.g. powdered form “as sold”) on a voluntary basis, in addition to “ready to use”.

ii) Energy and macronutrients

Q2. Should the mandatory list of nutrients under Article 30(1) of the FIC Regulation apply to IF and FOF in addition to the existing requirements of Directive 2006/141/EC?

Q3. Would it be reasonable to require IF and FOF to provide nutrition information on both sodium content as well as salt content?

There was general discussion on the above questions. Some MS consider that the mandatory list of nutrients required by Article 30(1) of the FIC regulation should apply to IF and FOF in addition to the specific rules under Directive 2006/141/EC. There was some support to continue to label sodium. A declaration of both salt and sodium content could possibly be given as it would allow parents/caregivers to easily compare IF and FOF with other foods introduced in the diet of infants when complementary feeding has started.

iii) Vitamins, minerals and other substances

Q4. Should mandatory indication of vitamins and minerals be maintained on IF and FOF?

Q5. Should information on vitamins and minerals as a percentage of reference intakes for follow-on formulae be maintained on voluntary basis or should this be required on a mandatory basis?

There was support amongst MS for maintaining the mandatory indication of vitamins and minerals on IF and FOF as indicated in Directive 2006/141/EC. There was some discussion suggesting that an indication of vitamins and minerals on FOF as a percentage of the specific reference values listed in Directive 2006/141/EC, could be permitted on a voluntary basis.

2.Other labelling requirements

i)Statements on the suitability of infant formulae and follow on formulae

There was support that the text in Articles 13(1)(a) and 13(1)(b) should be modified by deleting the words ‘*particular nutritional uses by*’.

ii) Instructions for preparation and use

Q6. Is it appropriate to maintain the provision of Article 13(1)(e) of Directive 2006/141/EC regarding the instructions for preparation, storage and disposal of infant formulae and follow-on formulae or is it sufficient to rely on the requirements concerning instructions for the appropriate storage and use of products as listed in Articles 9(1)(g), 9(1)(j), 25 and 27 in the FIC Regulation?

There was some support to maintain the more detailed requirements under Directive 2006/141/EC in addition to the general labelling rules concerning instructions for the appropriate storage and use of products in the FIC Regulation. There was also some consideration for more flexibility.

iii) Other provisions

Article 13(3), 13(4), 13(5) and 13(7) of Directive 2006/141/EC foresee a series of requirements on the labelling of infant formulae and follow-on formulae that Article 13(8) also extends to the presentation and advertising. In particular, Article 13(5) and Article 13(8) of Directive 2006/141/EC foresee that the labelling, presentation and advertising of infant formulae shall not include pictures of infants, nor shall it include other pictures or text which may idealise the use of the product. It may, however, have graphic representations for easy identification of the product and for illustrating methods of preparation.

The FSG Regulation foresees in its Article 10(1) the general principle that "*that the labelling, presentation and advertising of infant formula and follow-on formula shall be designed so as not to discourage breast-feeding*". Article 10(2) of the FSG Regulation extends the current provision of Article 13(5) of Directive 2006/141/EC to the labelling of follow-on formula (but not to the presentation and advertising), in order to ensure accurate product identification for consumers.

MS discussed the importance of the above mentioned provisions of Directive 2006/141/EC and whether it would be appropriate to transfer them in the delegated act where these are not already covered by the FSG Regulation. The Commission mentioned that if a provision is included in the FSG regulation it cannot be repeated in the delegated act.

3.Nutrition and Health Claims

i)Article 13(6) of Directive 2006/141/EC foresees that the labelling of infant formulae may bear nutrition and health claims only in the cases listed in Annex IV of the Directive and in accordance with the conditions set out therein. Article 13(8) extends the application of this provision to the presentation and advertising of infant formulae. No similar provision is foreseen for follow-on formulae.

Q7. Should a stricter stance be followed for infant formulae than for follow-on formulae as regards use of claims and what are MS views on the list of claims currently included in Annex IV to Directive 2006/141/EC?

There was some support to maintain a stricter approach for claims on IF. Some MS questioned the relevance for some of the claims currently listed in Annex IV of Directive 2006/141/EC.

ii) Claims on mandatory nutrients

There was general support with the view that claims can be made on mandatory ingredients on the basis that Food Business Operators made it clear on their product that all similar products in the market also contain the same ingredients by law. It was also confirmed that only Article 14(1)(b) health claims can be used on FOF.

4. Various aspects other than composition

Q8. Should the various provisions other than composition of IF and FOF (e.g. general principles and requirements of IF and FOF, sales denomination, notification procedure, promotion and commercial practices, information on feeding practices) be transferred to the delegated act where they not are already covered by the FSG Regulation?

We would welcome your views on this question.

Next meeting
The next working group meeting is the afternoon of 15 November.

To help inform future discussions, please email any comments relating to the questions with reasoning behind them, to parnutsnotfications@dh.gsi.gov.uk by **COP 6 December 2013.**

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