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Opinion

Title **Impact Assessment on a Commission Decision on the setting of nutrient profiles**

Resubmission - (draft version of 28 January 2009)

Lead DG **SANCO**

1) Impact Assessment Board Opinion

(A) Context

Regulation (EC) No 1924/2006 of the European Parliament and of the Council on nutrition and health claims made on foods (the Regulation) establishes rules for the use of claims in the labelling, the presentation and the advertising of foods. The Regulation foresees the setting of nutrient profiles, via the regulatory committee procedure with scrutiny by early 2009.

Article 4(1) of the Regulation foresees the request by the Commission of an EFSA scientific advice on the setting of nutrient profiles, and sets out principles and criteria by which profiles should be set. EFSA adopted its opinion on 31 January 2008, on which basis the Commission has drafted its proposal for a system to evaluate the nutrient profiles.

(B) Positive aspects

The Report has been significantly re-drafted from the original and is much clearer to read. It is consistent in comparing the advantages and disadvantages of options to consumers and business.

(C) Main recommendations for improvements

The recommendations below are listed in order of descending importance. Some more technical comments will be transmitted directly to the author DG.

General recommendation:

Although the resubmitted IA report is of better quality overall, the justification for the proposed approach to nutrient profiling still needs to be significantly strengthened. While the Impact Assessment Board acknowledges the difficulty in

quantifying the expected impacts, the report does not include an adequate response to its request for illustrative examples providing estimates of orders of magnitude for specific markets/substances, including where possible the broader economic and social impacts. In addition, the report should further clarify the argumentation that leads to the identification of the preferred option, and develop further the responsibilities of Member States and other bodies in enforcement and implementation. Finally, further improvements are necessary in the presentation of stakeholder contributions to the consultation

(1) The report should clarify certain steps of the argumentation that leads to the identification of the preferred option. The section discussing “number of nutrients to be included in the profile” is less informative than in the previous version of the report and should explain why only sodium, sugars and saturated fat are considered and not wider options incorporating, for example, fibre, which were presented in the previous report. Moreover, the Report should provide more explicit arguments why certain categories of foods were awarded exemptions while this was not the case for others that were suggested by stakeholders.

(2) The report should further clarify the responsibilities of Member States and other bodies in the implementation and enforcement of the proposal. Although the Report has provided useful background information on existing mechanisms at Member State level, it is still insufficiently clear on the responsibilities of different actors in ensuring adequate compliance levels, and on how this can be done without imposing unnecessary costs on public authorities and economic operators.

(3) The report still needs to explain more convincingly why the relevant data is not available, and provide more qualitative and illustrative evidence of the impacts of the proposed option. In any event, an IA should be carried out for each individual comitology decision.

(4) The report should present the positions of the most important stakeholders on the proposed nutrient profiles in a more comprehensive manner. Although the report provides some additional clarity on stakeholder contributions, it should re-incorporate the table listing consulted stakeholders and the summary of the EFSA opinion which appeared in the previous version of the report (Annex). The report still needs to present more clearly the arguments of different stakeholders, including Member States, in favour of or against certain nutrient profiles and include a summary of the different positions.

(D) Procedure and presentation

The resubmitted report is more accessible to a non-expert reader. The repeated use of the terminology “option (i), (ii)” which refer to different stages in the iterative structure of the policy options section is confusing and should be avoided or further clarified. The Executive Summary needs to present more fully the analysis contained in the body of the impact assessment, and although it was prepared before the adoption of the revised Impact Assessment Guidelines, could usefully follow the guidance provided there.

2) IAB scrutiny process

Reference number	2008/SANCO/056
Author DG	SANCO
External expertise used	No
Date of Board Meeting	Written procedure
Date of adoption of Opinion	09-02-2009 The present opinion concerns a resubmitted draft IA Report. The first opinion was issued on 18 December 2008