

FOOD STANDARDS AGENCY CONSULTATION

Title: Draft Food Labelling (Nutrition Declarations) (England) Regulations 2009

CONSULTATION SUMMARY PAGE

Date consultation launched:	Closing date for responses:
6 March 2009	29 May 2009

Who will this consultation be of most interest to?

Food businesses that market food supplements, make nutrition or health claims, voluntarily add vitamins and minerals to foods or provide voluntary nutrition labelling, and enforcement authorities.

What is the subject of this consultation?

The Draft Food Labelling (Nutrition Declarations) (England) Regulations 2009

What is the purpose of this consultation?

To formally seek the views of stakeholders on draft Regulations intended to implement the relevant provisions of Commission Directive 2008/100/EC into national law. Parallel regulations are also being produced in Scotland, Wales and Northern Ireland and consultations on these are to run concurrently.

Responses to this consultation should be sent to:

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Nutrition Division, Branch E
FOOD STANDARDS AGENCY
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Is an Impact Assessment included with this consultation?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/> See Annex A for reason.
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Draft Food Labelling (Nutrition Declarations) (England) Regulations 2009

DETAIL OF CONSULTATION

Introduction

1. We would welcome your comments on the attached draft Food Labelling (Nutrition Declarations) (England) Regulations 2009, attached below.
2. The intention of the Draft Regulations that are the subject of this consultation will be to implement Commission Directive 2008/100/EC into national legislation.
3. The Food Standards Agency in Scotland, Wales and Northern Ireland will each consult on parallel but separate Regulations that will apply in their territories.
4. Comments are also requested on the impact assessment and specific questions contained therein (attached at Annex B), which has been prepared to accompany this regulation.

Proposals

Key proposal(s):

- Introduction of a definition of fibre
- Introduction of energy conversion factors for fibre and the food additive erythritol which is a type of polyol
- Provision of updated list of vitamins and minerals which may be declared and their recommended daily allowances

5. Nutrition labelling requirements are laid down in European Union legislation (Council Directive 90/496/EEC).

The provision of nutrition information on food labels is voluntary unless:

- a nutrition claim, for example; 'low in fat', is made,
- a health claim, for example; 'calcium helps build strong bones and teeth', is made, or
- vitamins or minerals have been voluntarily added to a food,

in which case it becomes mandatory.

6. Companies can use a short version (Group 1 nutrition labelling), which details energy, protein, carbohydrate and fat in a product, or a longer version (Group 2 nutrition labelling). Group 2 nutrition labelling gives details of the energy, protein, carbohydrate, sugars, fat, saturates, fibre and sodium in the foodstuff. Directive 90/496/EEC has previously defined each of these nutrients, except for fibre. One of the key amendments of Directive 2008/100/EC is inclusion of a definition for fibre.

7. Directive 90/496/EEC also defines energy conversion factors for different elements of foodstuffs which have to be used to calculate the energy value listed in nutrition information. Taking into account scientific and technological developments Directive 2008/100/EC introduces an energy conversion factor for the newly defined fibre and also introduces a specific energy conversion factor for erythritol (a type of polyol) which has recently been authorised as a food additive and can be used for a number of functions including as a sweetener.

8. The Annex to Directive 90/496/EEC lists the vitamins and minerals which may be declared as part of the nutritional labelling and lists their recommended daily allowances (RDAs). Only vitamins and minerals which are listed in this Annex and are present in a significant amount (as a rule 15% of the RDA) can be included in the nutrition information. In order to take into account scientific developments and in order to align this list with other legislation (The Nutrition and Health Claims Made on Foods Regulation (1924/2006) and the Addition of Vitamins and Minerals and of Certain Other Substances to Foods Regulation (1925/2006)), Directive 2008/100/EC updates the list of vitamins and minerals and their respective RDAs.

9. Directive 2008/100/EC requires that Member States bring into force by 31 October 2009 the laws, regulations and administrative provisions necessary to comply with this Directive and shall apply such provisions in such a way as to prohibit with effect from 31 October 2012, the trade in such products which do not comply with Directive 90/496/EEC (as amended by Directive 2008/100/EC).

Consultation Process

10. The FSA previously consulted on a draft proposal from the Commission in March and April 2008

[\(<http://www.food.gov.uk/consultations/consulteng/2008/nutlabelmar08eng>\)](http://www.food.gov.uk/consultations/consulteng/2008/nutlabelmar08eng).

Responses to this consultation were taken into account in developing the UK position when the Commission's proposal was voted on at the Standing Committee on the Food Chain and Animal Health. Commission Directive 2008/100/EC was subsequently adopted by the Commission. The FSA is now consulting on the draft regulation to introduce the provisions of Directive 2008/100/EC into national law. The consultation package includes a draft impact assessment which includes cost estimates which take account of responses to the earlier consultation. We are seeking in this consultation any further information which will help us to refine these estimates.

Questions asked in the IA attached to this consultation:

Questions to food business operators

Q1: Will this definition of 'fibre' affect your ability to make a nutrition claim? If so, how many products will be affected (number and percentage of your total number of products)?

If so, please give examples of positive and negative effects and potential costs/benefits related to your ability to make a nutrition claim.

Q2: Will introduction of these energy conversion factors affect your ability to make nutrition claims? If so, how many products will be affected (number and percentage of your total number of products)?

If so, please give examples of positive and negative effects and potential costs/benefits related to your ability to make nutrition claims.

Q3: Will this updated list of vitamins and minerals and associated RDAs affect your ability to make nutrition claims? If so, how many products will be affected (number and percentage of your total number of

products)?

If so, please give examples of positive and negative effects and potential costs/benefits related to your ability to make nutrition claims.

Q4: How many of your products currently carry claims for fibre? For these products will claims for fibre have to be changed or lost following implementation of the legislation?

Q5: In which food product groups (e.g. ready meals, bread etc.) do you make claims regarding fibre?

Q6: How many of your products currently carry claims for vitamins and/or minerals? For these products will claims have to be changed or lost following implementation of the legislation?

Q7: In which food product groups do you make such claims?

Q8: Will any other elements of the new legislation affect your business? If so, how?

Q9: Are the cost assumptions set out in the impact assessment correct? Including the absorption of labelling costs within normal re-labelling cycles or are there some products affected by the directive that would not otherwise be relabelled within 3 years?

Q10: The proposed legislation should not disproportionately impact small business as there are very few, if any, incremental costs involved in achieving compliance. However we welcome views from stakeholders and in particular small businesses on this assumption.

Question to enforcement officers:

Q11: Are the time and cost estimates for familiarisation of the legislation for enforcement officers realistic? If not, please provide estimates of the additional time spent on nutritional labelling enforcement this Directive will cause.

Questions to food business operators:

Q12: Do you have a more accurate figure of how many food businesses the Directive is likely to affect in your area or nationally (compared to 26,800)?

Q13. Are these estimates of time and cost appropriate? If not, how should they be amended?

Q14. Are the assumptions about administrative burdens correct? Are there any other record keeping requirements as a result of implementing option 2?

11. We particularly welcome comments from the businesses which may be affected by the legislation and from enforcement authorities. Comments are welcomed in response to the questions above as well on any other aspects of the draft regulation or accompanying impact assessment.

Other relevant documents

- **Commission Directive 2008/100/EC¹**

Responses

12. **Responses are required by close 29 May 2009.** Please state, in your response, whether you are responding as a private individual or on behalf of an organisation/company (including details of any stakeholders your organisation represents).

Thank you on behalf of the Food Standards Agency for participating in this public consultation.

Yours faithfully,

Mark Willis

Promotions, Nutrition Labelling and Dietetic Foods Branch
Nutrition Division

Enclosed

Annex A: Standard Consultation Information

Annex B: Impact Assessment

Annex C: List of interested parties

¹ OJ L 285, 29.10.2008, p. 9

Queries

1. If you have any queries relating to this consultation please contact the person named on page 1, who will be able to respond to your questions.

Publication of personal data and confidentiality of responses

2. In accordance with the FSA principle of openness our Information Centre at Aviation House will hold a copy of the completed consultation. Responses will be open to public access upon request. The FSA will also publish a summary of responses, which may include personal data, such as your full name and contact address details. If you do not want this information to be released, please complete and return the Publication of Personal Data form, which is on the website at <http://www.food.gov.uk/multimedia/pdfs/dataprotection.pdf> Return of this form does not mean that we will treat your response to the consultation as confidential, just your personal data.
3. In accordance with the provisions of Freedom of Information Act 2000/Environmental Information Regulations 2004, all information contained in your response may be subject to publication or disclosure. If you consider that some of the information provided in your response should not be disclosed, you should indicate the information concerned, request that it is not disclosed and explain what harm you consider would result from disclosure. The final decision on whether the information should be withheld rests with the FSA. However, we will take into account your views when making this decision.
4. Any automatic confidentiality disclaimer generated by your IT system will not be considered as such a request unless you specifically include a request, with an explanation, in the main text of your response.

Further information

5. A list of interested parties to whom this letter is being sent appears in Annex B. Please feel free to pass this document to any other interested parties, or send us their full contact details and we will arrange for a copy to be sent to them direct.
6. Please let us know if you need paper copies of the consultation documents or of anything specified under '**Other relevant documents**'.
7. This consultation has been prepared in accordance with HM Government Code of Practice on Consultation, available at: <http://www.berr.gov.uk/files/file47158.pdf>
The Consultation Criteria are available at:
<http://www.berr.gov.uk/whatwedo/bre/consultation-guidance/page44458.html>
8. Criterion 2 of HM Government Code of Practice on Consultation states *Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.*
9. The Code of Practice states that an Impact Assessment should normally be published alongside a formal consultation. Please see the Impact Assessment at Annex B.
10. For details about the consultation process (not about the content of this consultation) please contact: Food Standards Agency Consultation Co-ordinator, Room 2C, Aviation House, 125 Kingsway, London, WC2B 6NH. Tel: 0207 276 8630.

Comments on the consultation process itself

11. We are interested in what you thought of this consultation and would therefore welcome your general feedback on both the consultation package and overall consultation process. If you would like to help us improve the quality of future consultations, please feel free to share your thoughts with us by using the Consultation Feedback Questionnaire at:

<http://www.food.gov.uk/multimedia/worddocs/consultfeedback.doc>

12. If you would like to be included on future Food Standards Agency consultations on other topics, please advise us of those subject areas that you might be specifically interested in by using the Consultation Feedback Questionnaire at:

<http://www.food.gov.uk/multimedia/worddocs/consultfeedback.doc>. The questionnaire can also be used to update us about your existing contact details.

Summary: Intervention & Options

Department /Agency: Food Standards Agency	Title: Assessment of impact of implementing Commission Directive 2008/100/EC which amends Directive 90/496/EEC on nutrition labelling by adding a definition of 'fibre; energy conversion factors for fibre and erythritol; and an updated list of vitamins and minerals and their recommended daily allowances	
Stage: Consultation	Version: 2	Date: 1 March 2009
Related Publications: Commission Directive 2008/100/EC; FSA consultation package, including IA on Commission proposal of January 2008 and summary of responses to consultation.		

Available to view or download at:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:285:0009:0012:EN:PDF;>
<http://www.food.gov.uk/consultations/consulteng/2008/nutlabelmar08eng>

Contact for enquiries: Mark Willis

Telephone: 0207 276 8150

What is the problem under consideration? Why is government intervention necessary?

Legislative rules on nutrition labelling of foodstuffs need to be updated:

- to reflect recent scientific and technological developments: Directive 2008/100/EC establishes a definition of 'fibre', adds energy conversion factors for fibre and erythritol, updates the list of vitamins and minerals which may be declared and their recommended daily allowances;
- to ensure coherence between nutrition labelling legislation and other legislation (The Nutrition and Health Claims made on Foods Regulation (1924/2006) and the Addition of Vitamins and Minerals and of Certain Other Substances to Foods Regulation (1925/2005))

What are the policy objectives and the intended effects?

- To create coherence between various pieces of legislation on nutrition and health claims and addition of minerals and certain other substances to foods
- to provide industry and enforcement authorities with a clear technical framework to work within
- to provide consumers with consistent and accurate information based on up-to-date scientific evidence.

What policy options have been considered? Please justify any preferred option.

Option 1 – do nothing - fail to implement Directive 2008/100/EC.

Option 2 – implement the provisions of Directive 2008/100/EC within the timescale set out in the Directive.

A number of policy options were considered in March and April last year when the FSA consulted on the European Commission's proposal for amending the nutrition labelling directive. Option 2 is the preferred option as this will ensure that nutrition information provided on food labels is based on the most up-to-date scientific evidence and provide potential marketing opportunities for industry to exploit.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? Trade in products that do not comply with the new rules will be prohibited from 31 October 2012. The effects will be reviewed in October 2015 at the latest.

Ministerial/CEO Sign-off For consultation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister/Chief Executive*:



Date: 3/2/09

* for Impact Assessments undertaken by non-ministerial departments/agencies and NOT being considered by Parliament

Summary: Analysis & Evidence

Policy Option: 2	Description: implement the provisions of Directive 2008/100/EC within the timescale set out in it
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COSTS	ANNUAL COSTS	Description and scale of key monetised costs by 'main affected groups' Familiarisation costs of local authorities (approx. £5,000) and businesses (approximately £200,000).		
	One-off (Transition)	Yrs		
	£ 205,000	5		
	Average Annual Cost (excluding one-off)			
	£ 205,000		Total Cost (PV)	£ 205,000
	Other key non-monetised costs by 'main affected groups' Erythritol analysis and fibre analysis			

BENEFITS	ANNUAL BENEFITS	Description and scale of key monetised benefits by 'main affected groups'		
	One-off	Yrs		
	£			
	Average Annual Benefit (excluding one-off)			
	£		Total Benefit (PV)	£
	Other key non-monetised benefits by 'main affected groups' Clarity for consumers. local authority enforcement officers and businesses.			

Key Assumptions/Sensitivities/Risks

Price Base Year	Time Period Years	Net Benefit £	Range (NPV)	NET BENEFIT (NPV Best estimate) £
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What is the geographic coverage of the policy/option?	UK			
On what date will the policy be implemented?	2009			
Which organisation(s) will enforce the policy?	Local authorities			
What is the total annual cost of enforcement for these organisations?	£ N/K			
Does enforcement comply with Hampton principles?	Yes			
Will implementation go beyond minimum EU requirements?	No			
What is the value of the proposed offsetting measure per year?	£			
What is the value of changes in greenhouse gas emissions?	£ negligible			
Will the proposal have a significant impact on competition?	No			
Annual cost (£-£) per organisation	Micro	Small	Medium	Large
(excluding one-off)				
Are any of these organisations exempt?	No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices)		(Increase - Decrease)	
Increase of £	Decrease of £	Net Impact	£ 0

Key: Annual costs and benefits: Constant Prices (Net) Present Value

Evidence Base (for summary sheets)

Reason for Intervention

The nutritional composition of a food product is an essential piece of information used to inform consumer choice. This legislation updates existing nutritional labelling in accordance with recent scientific opinion.

Directive 2008/100/EC updates certain technical aspects of Council Directive 90/496/EEC on Nutrition Labelling of Foodstuffs (the NLD) to recognise scientific and technological developments since 1990. It adds:

- a definition of 'fibre'
- energy conversion factors for fibre and the food additive erythritol which is a type of polyol
- an updated list of vitamins and minerals which may be declared and their recommended daily allowances (see table below).

Vitamin/mineral	Recommended Daily Allowance
Vitamin A	800 µg
Vitamin D	5 µg
Vitamin E	12 mg
Vitamin K	75 µg
Vitamin C	80 mg
Thiamin	1.1 mg
Riboflavin	1.4 mg
Niacin	16 mg
Vitamin B6	1.4 mg
Folic acid	200 µg
Vitamin B12	2.5 µg
Biotin	50 µg
Pantothenic acid	6 mg
Potassium	2000 mg
Chloride	800 mg
Calcium	800 mg
Phosphorus	700 mg
Magnesium	375 mg
Iron	14 mg
Zinc	10 mg
Copper	1 mg
Manganese	2 mg
Fluoride	3.5 mg
Selenium	55 µg
Chromium	40 µg
Molybdenum	50 µg
Iodine	150 µg

These amendments will ensure coherence between the NLD and other European legislation, particularly Regulation 1924/2006 on Nutrition and Health Claims made on Foods (the NHCR), Regulation 1925/2005 on the Addition of Vitamins and Minerals and of Certain Other Substances to Foods (the AVMR) and Directive 2002/46/EC on Food Supplements Directive (the FSD). It will provide greater legal clarity to the food industry in terms of providing

information to consumers and will facilitate more consistent enforcement of this aspect of food law.

These amendments may be expected to benefit industry and food law enforcement officers.

Intended effect

The purpose of this Statutory Instrument (SI) is to implement, in England, Commission Directive 2008/100/EC amending Council Directive 90/496/EEC on nutrition labelling of foodstuffs as regards recommended daily allowances, energy conversion factors and definitions.

The Directive will apply in all EU member states. Separate implementing legislation will be made in Scotland, Wales and Northern Ireland.

The intended effect is to update the legislation to take into account scientific and technological developments which will create marketing opportunities for producers and make it easier for enforcement officers to verify and check claims.

Background

Food labelling is an area of European Union competence. The rules which govern nutrition labelling are laid out in the NLD. The NLD defines the requirements for nutrition labelling on pre-packed foods, including technical requirements, and was implemented into law for England, Scotland and Wales by the Food Labelling Regulations 1996 (as amended), and by similar but separate legislation for Northern Ireland.

Food labelling helps consumers make informed choices about the food they buy or consider buying. The current rules lack clarity about legal requirements for industry and enforcement authorities. There is a need to update specific technical issues within the NLD as set out in more detail below.

Fibre

Directive 90/496/EEC does not define fibre. However the NHCR lays down conditions for nutrition claims to be made about fibre (source of fibre, high fibre). There is a need to define fibre to ensure there is a consistent basis within the UK and across Europe for fibre labelling and claims.

The definition of 'fibre' in Annex II to Commission Directive 2008/100/EC states:

"fibre" means carbohydrate polymers with three or more monomeric units, which are neither digested nor absorbed in the **human** small intestine and belong to the following categories:

- edible carbohydrate polymers naturally occurring in the food as consumed;
- edible carbohydrate polymers which have been obtained from food raw material by physical, enzymatic or chemical means **and which have a beneficial physiological effect demonstrated by generally accepted scientific evidence;**
- edible synthetic carbohydrate polymers **which have a beneficial physiological effect demonstrated by generally accepted scientific evidence.**

This differs from the definition set out in the European Commission's proposal for amendments to 90/496/EEC on which we consulted last year (see the section headed 'Consultation' below) as a result of the addition of the text highlighted above in bold.

QUESTIONS to food business operators:

1. Will the definition of 'fibre' affect your ability to make a nutrition claim? If so, how many products will be affected (number and percentage of your total number of products)?

If so, please give examples of positive and negative effects and potential costs/benefits related to your ability to make a nutrition claim.

Energy conversion factors

The NLD defines energy conversion factors; these are required to calculate the energy present in a foodstuff. Scientific and technological advances relating to food ingredients mean that new energy conversion factors are required to ensure the consumer is not misled as to the overall energy content of some foodstuffs. Directive 2008/100/EC adds energy conversion factors for fibre (2 kcal/g (8 kJ/g) and erythritol (0 kcal/g (0 kJ/g); these are the same figures as in the Commission's 2008 proposal.

QUESTIONS to food business operators:

2. Will the introduction of these energy conversion factors affect your ability to make nutrition claims? If so, how many products will be affected (number and percentage of your total number of products)?

If so, please give examples of positive and negative effects and potential costs/benefits related to your ability to make nutrition claims.

Vitamins and minerals and their recommended daily allowances

The Annex to the NLD lists the vitamins and minerals which may be declared as part of nutrition labelling and specifies their recommended daily allowances (RDAs). The NHCR, AVMR and FSD all refer to the NLD Annex, and the RDAs listed there, for the purposes of labelling. However these Regulations and Directives contain a fuller list of vitamins and minerals than the one currently given in the older NLD. In order to ensure coherence with these Regulations and Directives there is a need to update the current list of vitamins and minerals and associated RDAs. The list of vitamins and minerals and their RDAs in Directive 2008/100/EC is the same as that in the Commission's 2008 proposal.

QUESTIONS to food business operators:

3. Will this updated list of vitamins and minerals and associated RDAs affect your ability to make nutrition claims? If so, how many products will be affected (number and percentage of your total number of products)?

If so, please give examples of positive and negative effects and potential costs/benefits related to your ability to make nutrition claims.

Options

Option 1 – do nothing - fail to implement Directive 2008/100/EC.

Option 2 – implement the provisions of Directive 2008/100/EC within the timescale set out in the Directive.

Option 1: Failure to implement would bring disadvantages to consumers, industry and enforcement authorities. Failure to implement would mean consumers would not have access to certain aspects of the nutritional content of some foods in the market; industry would be unable to comply with all the legislation as it is not coherent; and enforcement officers would have to enforce legislation which is contradictory.

Failure to implement would also be a risk to government in that it would result in a serious breach of the UK's obligations under the EC treaty and would be likely to attract infraction proceedings by the Commission against the UK under Article 226 of the EC treaty and potential fines. Other Member States could also initiate action under Article 227. Ultimately, the UK would be forced to implement.

Option 2: The Food Standards Agency agrees with the rationale for amending Directive 90/496/EEC and with the requirement (in Article 2 of Directive 2008/100/EC) to bring implementing legislation into force by 31 October 2009. As set out in Article 2, the implementing SI will prohibit trade in non-compliant products from 31 October 2012. This will provide three years for re-labelling of products to ensure compliance and for redesign of labels outside of the normal redesign cycle if this is necessary.

Costs and benefits of options

Food businesses affected by the implementation of Directive 2008/100/EC are those that market food supplements and any that choose to provide voluntary nutrition labelling, make a nutrition or health claim on a product or voluntarily add vitamins or minerals to foodstuffs.

Costs

Option 1: although this option might not incur any direct costs for industry it could potentially lead to trade barriers and lost business; in addition it could result in consumer confusion. If the countries of the UK did not implement the operative provisions of the Directive this would lead to infraction proceedings (as described above) and would lead to a significant cost to government.

Option 2: costs are outlined below.

Costs to food businesses for re-labelling and analysis

The average labelling cost of £1,000 per SKU (Stock Keeping Unit – A food product with its own unique barcode) has been widely accepted during previous consultations with industry. This is an average figure used for aggregation because the costs vary widely in re-labelling dependant upon: the media a label is printed on, the colours used and whether the label requires a plate change amongst other factors. However, given the three year transition period, it is assumed that most products will be relabelled within this period and therefore the labelling changes will be absorbed within normal product re-labelling cycles.

There may be some costs associated with erythritol analysis and fibre analysis for companies to correctly label these food components. We will not be able to determine whether there will be costs associated with the recommended methods of analysis for fibre until we know what these are. In the case of fibre, the FSA will maintain its current guidance until European Commission guidance is adopted (see paragraph under benefits below). In this regard the European Commission has recently indicated that a discussion paper on this subject is being prepared for circulation and discussion with Member States by mid 2009.

We assume that, given the three-year transition period, any direct incremental costs associated with implementation of Directive 2008/100/EC will be low, apart from a small potential cost for erythritol and fibre analysis and that associated with reading and understanding the new legislation .

QUESTIONS to food business operators

4. How many of your products currently carry claims for fibre? For these products will claims for fibre have to be changed or lost following implementation of the legislation?

5. In which food product groups (e.g. ready meals, bread etc.) do you make claims regarding fibre?

6. How many of your products currently carry claims for vitamins and/or minerals? For these products will claims have to be changed or lost following implementation of the legislation?

7. In which food product groups do you make such claims?

8. Will any other elements of the new legislation affect your business? If so, how?

9. Are the cost assumptions set out above correct? Including the absorption of labelling costs within normal re-labelling cycles or are there some products affected by the directive that would not otherwise be relabelled within 3 years?

10. The proposed legislation should not disproportionately impact small business as there are very few, if any, incremental costs involved in achieving compliance. However we welcome views from stakeholders and in particular small businesses on this assumption.

Familiarisation: Costs to enforcement officers

In terms of reading and understanding the new legislation, the FSA estimates a time of 30 minutes per local authority (LA) to be realistic. This equates to a cost per LA of £10.00 (all figures are rounded). This figure is taken from the 2008 ONS ASHE (Annual Survey of Hours and Earnings) figures for Public Service Professionals of £15.40 per hour (median value), which, in-line with the Standard Cost Model, is then up-rated by 30% to account for overheads, to give a figure of £20.00 per hour. Divided by two for half an hour, gives £10.00. There are 469 LAs who will need to read the new legislation: £10.00 x 469 yields a one-off familiarisation cost of approximately £4,700.

There may be costs associated with putting in place new methods of analysis for fibre, however we will not be able to determine whether this is so until we know what the recommended methods of analysis for fibre are.

Familiarisation: Costs to food businesses

In terms of reading and understanding the new legislation, the FSA estimates a time of 30 minutes per business to be realistic. This equates to a cost per business of £7.50 (all figures are rounded) This figure is taken from the 2008 ONS ASHE (Annual Survey of Hours and Earnings) figures for Managers in Distribution, Storage and Retailing of £11.59 per hour (median value),

which, in-line with the Standard Cost Model, is then up-rated by 30% to account for overheads, to give a figure of £15.00 per hour. Divided by two for half an hour, gives £7.50.

There are 9,865 food related manufacturing companies and 43,830 non-specialised food retailers registered in the UK.¹ Both figures include businesses, which will not need to read the legislation (approximately 28,000 of the businesses above have less than 5 employees), in the absence of accurate estimates on how many businesses the legislation will affect a mid-point of 26,800 is assumed. If they all need to read the legislation this will equate to 26,800x£7.50 which yields a one-off familiarisation cost of approximately £200,000. This is likely to be an overestimate, as the nutritional labelling updates are specific to food product groups.

This yields a total familiarisation cost of approximately £205,000. This breaks down, using VAT registered business data² to approximately: £155,000 in England, £27,000 in Scotland, £13,000 in Wales and £10,000 in Northern Ireland.

QUESTION to enforcement officers:

11. Are the time and cost estimates for familiarisation of the legislation for enforcement officers realistic? If not, please provide estimates of the additional time spent on nutritional labelling enforcement this Directive will cause.

QUESTIONS to food business operators:

12. Do you have a more accurate figure of how many food businesses the Directive is likely to affect in your area or nationally (compared to 26,800)?

Benefits

Option 1: failure to implement would not bring any benefits to consumers, industry, enforcement authorities or government.

Option 2: benefits are outlined below

Benefits to consumers

At present, there are no legislative controls on the definition of 'fibre' for food labelling purposes nor on the methods of analysis to be used in determining the fibre content of food products. The FSA has issued guidance on methods of analysis however, food business operators are not compelled to follow that guidance to satisfy themselves of the fibre content of food products and, as a result, claims on different products may relate to different forms of fibre with varying (or no) proven human health benefits.

Once there are clear recommendations about the methods of analysis for fibre to be used in relation to food labelling (see below) there should be a clear benefit of applying a consistent definition since consumers will be better informed about the fibre content of foods they buy or consider buying.

¹ Taken from the category 'manufacturer of food products and beverages' and 'Retail sale in non-specialised stores with food, beverages or tobacco predominating' ONS: TABLE A3.1 UNITED KINGDOM - NUMBER OF LOCAL UNITS in VAT and/or PAYE BASED ENTERPRISES in 2008

² Ibid

Benefit to food businesses and to enforcement officers

By providing a definition of 'fibre' the new legislation aims to provide clarity in terms of how claims about fibre relate to the fibre content of a food; ultimately this will be a benefit for the food industry and for enforcement officers. However, the legislation does not link the 'functional' definition of fibre to methods of analysis, thereby leaving some uncertainty for food business operators and enforcement officers at present. The European Commission plans to produce guidance on suitable methods of analysis for fibre, and the FSA will press for this to be available before 31 October 2009. However, until this is agreed with EU member states the uncertainty remains.

Administrative Burden Costs

Labelling is an administrative burden on business. However, with the proposed 3 year transition period any changes should be within businesses normal commercial re-labelling cycle and so no additional burdens should result from implementing option 2.

QUESTION to food business operators:

13. Are these estimates of time and cost appropriate? If not, how should they be amended?

14. Are the assumptions about administrative burdens correct? Are there any other record keeping requirements as a result of implementing option 2?

Consultation

The Food Standards Agency formally consulted a wide range of stakeholders (including consumer and health professional groups, manufacturers and food industry bodies, enforcement bodies, individuals and government departments), on the European Commission's proposal to amend the nutrition labelling Directive, between 7 March and 18 April 2008. The consultation package (including the proposal and impact assessment) and a summary of consultation responses are available at:

<http://www.food.gov.uk/consultations/consulteng/2008/nutlabelmar08eng>

Enforcement

Local Authority Trading Standards (LA) will be responsible for the enforcement of the proposed new provisions. This remains unchanged from existing enforcement arrangements.

Simplification

There are no simplification measures included in this proposal.

Implementation and Review

Trade in products that do not comply with the new rules will be prohibited from 31 October 2012. Therefore, the effects will be reviewed in October 2015 at the latest.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	No	Yes
Small Firms Impact Test	No	Yes
Legal Aid	No	No
Sustainable Development	No	Yes
Carbon Assessment	No	No
Other Environment	No	No
Health Impact Assessment	No	No
Race Equality	No	Yes
Disability Equality	No	Yes
Gender Equality	No	Yes
Human Rights	No	No
Rural Proofing	No	No

Competition Assessment

The proposed legislation does not impose any significant costs to industry and applies to all manufacturers equally. By clarifying the labelling framework within which companies work there is scope for the legislation to help facilitate competition. It is not expected to impose significant negative impacts on competition.”

Small Firms Impact Test

It is not thought that the proposed legislation will disproportionately impact small businesses as there are very few, if any, incremental costs involved in achieving compliance.

Sustainable development

The Agency’s 2006 research, evaluating the impact on business of changes to nutrition labelling requirements in the UK, estimated that existing packaging stocks will tend to be mainly used up (69% of companies) within 12 months. Only 11% of companies require in excess of two years to use up their labels. The three-year transition period in the new legislation takes these timescales into account, and should therefore allow companies to use up existing packaging. We therefore expect that there will not be any significant amounts of wasted product, packaging or labels. It is unlikely, therefore, that there will be any considerable implications on greenhouse gas emissions or negative impacts on natural resources.

There will be a benefit to industry in terms of clarity of legislation. It is expected that these benefits will outweigh any potential costs to industry, which will be minimised by the proposed transition periods.

Race equality issues

The proposed legislation does not impose any restrictive compliance on any person from a particular race, gender or with disability

Gender equality issues

The proposed legislation does not impose any restrictive compliance on any person from a particular race, gender or with disability

Disability equality issues

The proposed legislation does not impose any restrictive compliance on any person from a particular race, gender or with disability

List of Interested Parties

3663 FIRST FOR FOOD SERVICE
4CHILDREN
A CAMACHO UK LTD
A G BARR
ABBOT LABORATORIES LIMITED
ABD SEROTEC / MORPHOSYS UK LTD
ABR FOODS
ADAMS WILSON & ASSOCIATES
ADAMSON BSMG
ADAS WALES
ADVERTISING ASSOCIATION
ADVERTISING STANDARDS AUTHORITY
ADVISORY BODY FOR SOCIAL SERVICES
CATERING
ADVISORY COMMITTEE ON ANIMAL
FEEDINGSTUFFS
AGRICULTURAL INDUSTRIES CONFEDERATION
AGRICULTURE AND HORTICULTURE
DEVELOPMENT BOARD
ALCONTROL LABORATORIES
AL-KHOEI FOUNDATION
ALL WALES DIETETIC ADVISORY COMMITTEE
ALLCHEM INTERNATIONAL
ALLERGY ALLIANCE
ALLIANCE FOR NATURAL HEALTH
ALLIED BAKERIES LID
ALLIED DOMEQ RETAILING LTD
ALLIED TECHNICAL CENTRE
ALLSPORTS INTERNATIONAL LTD
ALPHA FLIGHT SERVICES
AMERICAN FOOD INTERNATIONAL
AMERICAN PEANUT COUNCIL
AMICUS
ANAPHYLAXIS CAMPAIGN
ANIMAL MEDICINES INSPECTORATE
AN-NISA SOCIETY
APCO EUROPE
ARKOPHARMA (UK) LTD
ARLA FOODS PLC
ASDA STORES LIMITED
ASHTOWN FOOD RESEARCH CENTRE
ASHWELL ASSOCIATES
ASSISTANTE SECTORIELLE AGRO-
ALIMENTAIRE
ASSOCIATED BRITISH FOODS PLC
ASSOCIATION OF CEREAL FOOD
MANUFACTURERS
ASSOCIATION OF CONVENIENCE STORES
ASSOCIATION OF MUSLIM SCHOLARS
ASSOCIATION OF PASTRY CHEFS
ASSOCIATION OF PORT HEALTH AUTHORITIES
(APHA)
ASSOCIATION OF PUBLIC ANALYSTS OF
SCOTLAND
ASSOCIATION OF RADICAL MIDWIVES
ASSURED BRITISH MEAT
ASSURED FOOD STANDARDS
ASTON MANOR BREWERY
AUTHENTIXS
AVONDALE FOODS
BABY MILK ACTION
BAKKAVOR (BIRMINGHAM) LTD
BANGLADESH CATERERS ASSOCIATION UK
BARBOUR INDEX PLC
BARENTZ BV
BARNET LONDON BOROUGH COUNCIL
BARRY ATWOOD
BATEMANS
BEE FARMERS' ASSOCIATION OF THE UK
BEE SERVICES
BELSO'S (UK) CEREALS LTD
BERNARD MATTHEWS FARMS
BERNARD MATTHEWS LTD
BERRY OTTAWAY AND ASSOCIATES LIMITED
BETH-DIN
BEVAN ASHFORD
BHF HEALTH PROMOTION RESEARCH GROUP
BIOCARE
BIOFORCE (UK) LTD
BIOHEALTH LTD
BIRD & BIRD
BIRMINGHAM CHILDRENS HOSPITAL
BIRMINGHAM CITY LABORATORIES
BIRMINGHAM LIBRARY SERVICES
BODYCOTE BIRMINGHAM
BODYCOTE LAWLABS
BOLTON COUNCIL
BOMBAY HALWAY LIMITED
BONNIA PETITE BANQUETING LTD
BOOKER LTD
BOOTHES
BOOTS UK LIMITED
BOROUGH OF REIGATE & BANSTEAD
BOURNE LEISURE
BOURNE SALADS
BOURNEMOUTH UNIVERSITY
BRADFORD COUNCIL OF MOSQUES
BRADFORD HOUSE
BRAKE CO LTD
BRAKES
BREAKSPEAR HOSPITAL
BRENT COUNCIL
BRETBY CONFERENCE CENTRE
BREWSTER ET HUGUETTE WHITE
BRISTOL CITY COUNCIL
BRITANNIA FOOD INGREDIENTS LTD
BRITANNIA HEALTH PRODUCTS LTD
BRITISH AIRWAYS HEALTH SERVICES
BRITISH ASSOCIATION OF FLOWER ESSENCE
PRODUCERS
BRITISH ASSOCIATION OF NUTRITIONAL
THERAPISTS
BRITISH BEEKEEPER'S ASSOCIATION
BRITISH BEER AND PUB ASSOCIATION
BRITISH CAMEL MANUFACTURERS
ASSOCIATION
BRITISH CHEESE BOARD
BRITISH COFFEE ASSOCIATION
BRITISH COMPLEMENTARY MEDICINE
ASSOCIATION
BRITISH DENTAL ASSOCIATION
BRITISH DIETETIC ASSOCIATION
BRITISH EGG INDUSTRY COUNCIL
BRITISH ESSENTIAL OILS ASSOCIATION

List of Interested Parties

BRITISH FERMENTATION PRODUCTS
BRITISH FOOD IMPORTERS & DISTRIBUTORS ASSOCIATION
BRITISH FROZEN FOOD FEDERATION
BRITISH FRUIT JUICE ASSOCIATION
BRITISH GOAT SOCIETY
BRITISH HEART FOUNDATION
BRITISH HERBAL MEDICINE ASSOCIATION
BRITISH HOSPITALITY ASSOCIATION
BRITISH HUMANIST ASSOCIATION
BRITISH INSTITUTE FOR ALLERGY & ENVIRONMENTAL THERAPY
BRITISH MEAT PROCESSORS ASSOCIATION
BRITISH NUTRITION FOUNDATION
BRITISH PIG ASSOCIATION
BRITISH POTATO MARKETING
BRITISH POULTRY COUNCIL
BRITISH RETAIL CONSORTIUM
BRITISH SANDWICH ASSOCIATION
BRITISH SOCIETY FOR ECOLOGICAL MEDICINE
BRITISH SOFT DRINKS ASSOCIATION LTD
BRITISH STANDARDS
BRITISH SUGAR PLC
BRITISH VETERINARY ASSOCIATION
BRITVIC SOFT DRINKS LTD
BROMLEY CENTRAL LIBRARY
BROOKS-CARTER CLINIC
BSEM
BUCKINGHAMSHIRE COUNTY COUNCIL
BUREAU VERITAS
BURSON-MARSTELLER/BKSH
BUSINESS EYE
BUSINESS IN SPORT & LEISURE
C/O INSTITUTE OF OPTIMUM NUTRITION
CADBURY PLC
CADBURY SCHWEPPE'S PLC
CAMACOM LAW SOLICITORS LTD
CAMBRIDGE MANUFACTURING COMPANY LTD
CAMEDICA
CAMPDEN & CHORLEYWOOD FOOD RESEARCH ASSOCIATION
CANCER RESEARCH UK
CANTOX HEALTH SCIENCES INTERNATIONAL
CARDIFF SCIENTIFIC SERVICES
CARTMEL STICKY TOFFEE
CARVER WILDE COMMUNICATIONS LTD
CATALENT PHARMA SOLUTIONS
CATERER & HOTELKEEPER
CATERING UPDATE
CCI
CELLIFE UK LTD
CENTRAL LOBBY CONSULTANTS LTD
CENTRE FOR FOOD & HEALTH STUDIES LTD
CEREAL PARTNERS WORLDWIDE
CHARBONNEL ET WALKER LIMITED
CHARLES BARKER PLC
CHARTERED INSTITUTE OF ENVIRONMENTAL HEALTH
CHEMIST & DRUGGIST
CHILD ACTION PREVENTION TRUST
CHILLED FOOD ASSOCIATION LTD
CHINESE NATIONAL HEALTHY LIVING CENTRE
CHINESE TAKE AWAY ASSOCIATION
CHOCOLATES FOR CHOCOHOLICS LTD
CHRISTCHURCH
CHURCHES' COMMISSION FOR INTER-FAITH RELATIONS
CLARKE WILLMOTT SOLICITORS
CLARK'S ORIGINAL PIES
CLEARSPRING LTD
CLINIC OF NATURAL MEDICINE
CMS CAMERON MCKENNA
COASTAL TRADING
COBRA
COCA COLA TRADING COMPANY
COELIAC UK
COMMUNITY FOODS LTD
COMMUNITY NUTRITION GROUP
COMMUNITY PRACTITIONERS AND HEALTH VISITORS ASSOCIATION
COMPASS GROUP UK & IRELAND
CONFEDERATION OF BRITISH INDUSTRY
CONFEDERATION OF INDIAN ORGANISATIONS (UK)
CONFOCO INTERNATIONAL LIMITED
CONFOCO INTERNATIONAL LTD
CONSENSUS ACTION ON SALT AND HEALTH
CONSTELLATION EUROPE (HOLDINGS) LTD
CONSUMER FOCUS
CONSUMER FOCUS WALES
CONSUMERS FOR HEALTH CHOICE
CONTRACT FOOD LTD
CONWY COUNTY BOROUGH COUNCIL
COOKIE MAN LTD.
CO-OPERATIVE UNION LTD
COORS BREWERS PLC
COSUCRA
COTT BEVERAGES LTD
COUNCIL FOR RESPONSIBLE NUTRITION
COUNSEL LTD
COUNTRYSIDE ALLIANCE
COUNTY HOSPITAL
COVINGTON & BURLING
CRAIGAVON AREA HOSPITAL GROUP NSS
CRANBERRY FOODS
CROP PROTECTION ASSOCIATION
CULLINANE ASSOCIATES LTD
CUMBRIA COUNTY COUNCIL
D & T ASSOCIATION
DABUR INDIA LTD
DABUR RESEARCH FOUNDATION
DAILYCER LTD
DAIRY COUNCIL
DAIRY CREST
DAIRY CREST GROUP PLC
DAIRY UK LTD
DALE FARM (GB) LTD
DANISH BACON & MEAT COUNCIL LTD
DBC FOODSERVICE
DEL MONTE FOODS (UK) LTD
DENBIGSHIRE COUNTY COUNCIL
DENTSU BRUSSELS GROUP
DEPARTMENT FOR BUSINESS, ENTERPRISE AND REGULATORY REFORM
DEPARTMENT FOR CULTURE, MEDIA AND SPORT

List of Interested Parties

DEPARTMENT FOR ENVIRONMENT, FOOD AND RURAL AFFAIRS
DEPARTMENT FOR INNOVATION, UNIVERSITIES AND SKILLS
DEPARTMENT OF ENVIRONMENT FOOD AND RURAL AFFAIRS
DEPARTMENT OF LOCAL GOVERNMENT & ENVIRONMENT
DEPT OF AGRICULTURE & RURAL DEVELOPMENT FOR NORTHE
DEPT OF AGRICULTURE FOR NI
DERBYSHIRE COUNTY COUNCIL
DIABETES UK
DIAGEO
DIETETIC DEPT
DR STUART'S BOTANICAL TEAS
DRUCES & ATTLÉE
DSM
DURHAM COUNTY COUNCIL
EA GRIFFITHS AND SON
EALING COUNCIL
EAST AND NORTH HERTS. NHS TRUST
EAST END HOUSE
EAST MIDLANDS TRAIN
EAST RIDING OF YORKSHIRE COUNCIL
EAST SUSSEX COUNTY COUNCIL
EDLONG COMPANY LTD
ELKS BISCUITS
ELLIS LABELS & SYSTEMS LTD
ENGLISH TOURIST BOARD
ENVIRONMENTAL DATA SERVICES
ENVIRONMENTAL HEALTH AND TRADING STANDARDS SERVICE
ESSENTIAL TRADING CO-OPERATIVE LTD
ETHICS COMMITTEE'S
EUROFINS LABORATORIES LIMITED
EUROPEAN FEDERATION OF HEALTH PRODUCT MANUFACTURERS ASSOCIATION
EUROPEAN FOOD LAW ASSOCIATION UK
EUROPEAN RESEARCH INTO CONSUMER AFFAIRS
EUROPEAN SNACKS ASSOCIATION / SNACMA
EVERSHEDS
F I DATA SERVICES
FACULTY OF PUBLIC HEALTH
FANE VALLEY
FARM FRITES UK/IRELAND
FEDERATION OF BAKERS
FEDERATION OF DANISH PIG PRODUCERS & SLAUGHTERHOUSES
FEDERATION OF JAIN ORGANISATIONS
FEDERATION OF SYNAGOGUES
FEDERATION OF WHOLESALE DISTRIBUTORS
FIBRISOL SERVICE LTD
FINDUS LTD
FIRMENICH, WELLINGBOROUGH (UK) LTD
FISH TECHNOLOGY CONSULTANT
FISHMONGER'S COMPANY
FLINTSHIRE COUNTY COUNCIL
FOOD ADDITIVES AND INGREDIENTS ASSOCIATION
FOOD AND DRINK FEDERATION
FOOD AND ENVIRONMENTAL DIVISION LGC LTD
FOOD BRAND GROUP
FOOD BRANDS GROUP
FOOD COMMISSION UK LTD
FOOD CONSULTANCY
FOOD ENGINEERING INTERNATIONAL MAGAZINE
FOOD GB LTD
FOOD LABELLING DATABASE
FOOD LAW GROUP
FOOD STANDARDS AGENCY - NORTHERN IRELAND
FOOD STANDARDS AGENCY - SCOTLAND
FOOD STANDARDS AUSTRALIA NEW ZEALAND
FORESIGHT
FORUM OF PRIVATE BUSINESS
FORUM PRODUCTS LTD
FOX'S BISCUITS
FRENSENIUS KABI LTD
FRESH PRODUCE CONSORTIUM
FRESH-PACK CHILLED FOODS LTD
FRESHPACK LTD
FRIDAY'S LTD
FRIENDS OF THE EARTH
FROZEN AND CHILLED POTATO PROCESSORS ASSOCIATION
FSA ADVISORY COMMITTEE FOR WALES
FUEL PR (CLIENTS INCLUDE DANONE)
G C HAHN & CO LTD
G R LANE HEALTH PRODUCTS LTD
GALACTOSAEMIA SUPPORT GROUP
GB CHOICE
GENERAL DIETARY LTD
GENUINE EMPOWERMENT OF MOTHERS IN SOCIETY
GIN & VODKA ASSOCIATION
GIRACT
GIRAG SA
GLASGOW SCIENTIFIC SERVICES
GLENRYCK FOODS LTD
GLENS OF ANTRIM POTATOES LTD,
GLOUCESTER CITY COUNCIL
GM FREEZE CAMPAIGN
GOOD FOOD DISTRIBUTORS
GOODMAN DERRICK
GOVERNMENT OF WESTERN AUSTRALIA
GRAHAMS BAKERY
GRAIG FARM ORGANICS
GRAMPIAN COUNTRY FOOD GROUP
GRAYSHOTT HEALTH FOODS
GREEN ISLE FOODS, NORTHERN FOODS PLC
GREENCITY WHOLEFOODS
GREENCORE GROCERY
GREENWOODS SOLICITORS LLP
GUILD OF BANGLADESHI RESTAURANTEURS
GUILD OF PRACTITIONERS
GWYNEDD COUNCIL
H J HEINZ COMPANY LTD
H M PRISON SERVICE
H T WEBB & CO LTD
HAEMOLYTIC URAEMIC SYNDROME HELP
HALAL FOOD AUTHORITY

List of Interested Parties

HALAL MEAT
HALEWOOD INTERNATIONAL LTD
HALO FOODS LTD
HALTON BOROUGH COUNCIL
HAMPSHIRE COUNTY COUNCIL
HAMPSHIRE SCIENTIFIC SERVICES
HANDMADE CAKE COMPANY
HARRODS LTD
HARROW LONDON BOROUGH COUNCIL
HARTWELL FOOD RESEARCH LTD
HAZLEWOOD
HEALAN INGREDIENTS LTD
HEALTH & CONSUMER PROTECTION
DIRECTORATE - GENERAL
HEALTH CARE PRODUCTS
HEALTH FOOD MANUFACTURERS'
ASSOCIATION
HEATHER PAINE ASSOCIATES
HEINZ UK & IRELAND
HIGH COMMISSION FOR THE REPUBLIC OF
SOUTH AFRICA
HILDRETH & COCKER LTD
HILL & KNOWLTON (UK) LTD
HM PRISON SERVICE CATERING GROUP, PEAT
HOUSE
HOLFORD & ASSOCIATES
HONEY ASSOCIATION
HONEYROSE PRODUCTS LTD
HOSPITAL CATERERS ASSOCIATION
HOWARD FOUNDATION RESEARCH GROUP
HUSH (HAEMOLYTIC URAEMIC SYNDROME
HELP)
ICE CREAM ALLIANCE
ICE FRESH FOODS LTD
ILCHESTER CHEESE CO LTD
ILS LTD
IMAMS AND MOSQUES COUNCIL (UK)
INCORPORATED SOCIETY OF BRITISH
ADVERTISERS
INDEPENDENT NUTRITION LOGIC
INFANT AND DIETETIC FOODS ASSOCIATION
INNOCENT DRINKS
INSTITUTE OF FOOD SCIENCE & TECHNOLOGY
INSTITUTE FOR COMPLEMENTARY AND
NATURAL MEDICINE
INSTITUTE FOR OPTIMUM NUTRITION
INSTITUTE OF CHEMICAL ENGINEERS
INSTITUTE OF EDUCATION
INSTITUTE OF FOOD RESEARCH
INSTITUTE OF FOOD SCIENCE & TECHNOLOGY
(IFST)
INSTITUTE OF HOSPITALITY
INSTITUTE OF REFRIDGERATION
INTER FAITH NETWORK FOR THE UK
INTERNATIONAL FISH MEAL & OIL
MANUFACTURERS ASSOCIATION
INTERNATIONAL FLIGHT CATERING
INTERNATIONAL MARKETING
INTERNATIONAL MEAT TRADE ASSOCIATION
INTERNATIONAL PECTIN PRODUCERS'
ASSOCIATION
INTERNATIONAL SOFT DRINK COUNCIL
INTERSERVE (FACILITIES MANAGEMENT)
LIMITED
ION TRADING
IRISH YOGURTS LTD
ISBOURNE ENVIRONMENT LTD
ISKCON
ISLAMIC CENTRE OF GLASGOW
ISLAMIC FOOD & NUTRITION COUNCIL
ISLAMIC SHARIAH COUNCIL
ISLE OF MAN GOVERNMENT
ISP ALGINATES
J RALPH BLANCHFIELD CONSULTANCY
J SAINSBURY PLC
JACOBS BAKERY LIMITED
JAIN NETWORK
JAMES GILBERTSON & CO
JEAN GARON PUBLIC RELATIONS
JETRO LONDON
JOHN RUNDALL ASSOCIATES
JOHN RUSSELL ASSOCIATES/FAIA
JOHN TAYLOR AND SON
JOHN WEST FOODS LTD
JOHNSTON CONSULTING
JOINT COUNCIL FOR ANGLO CARIBBEAN
CHURCHES
JUST RACHEL QUALITY DESSERTS
K J LOVERING & CO LTD
KALLO FOODS LTD
KAPAJO.COM
KELLER & HECKMAN LLP
KELLOGG COMPANY (GB) LTD
KELLOGG EUROPE TRADING LIMITED
KENT COUNTY COUNCIL TRADING STANDARDS
KERRY FOODS UK
KETTLE FOODS
KIDNEY RESEARCH UK
KIKKOMAN TRADING EUROPE GMBH
KINNERTON CONFECTIONARY CO LTD
KITCHEN RANGE FOODS LTD
KORKER SAUSAGES LTD
KRAEBER (UK) LTD
KRAFT FOODS UK LTD
L HEPNER & ASSOCIATES LTD
LA LECHE LEAGUE (GREAT BRITAIN)
LABORATORY OF THE GOVERNMENT CHEMIST
(LGC)
LAMBETH TRADING STANDARDS
LANCASHIRE COUNTY ANALYSTS DEPT
LANCASHIRE COUNTY COUNCIL
LAW COMMISSION
LAW LABORATORIES LTD
LAWCODE
LAWDATA LTD
LAWRENCE GRAHAM
LEAD DEVELOPMENT ASSOCIATION
INTERNATIONAL
LEATHERHEAD FOOD INTERNATIONAL
LEEDS CITY COUNCIL
LEEDS METROPOLITAN UNIVERSITY
LEICESTERSHIRE COUNTY ANALYSTS LAB
LGC (TEDDINGTON) LTD
LIDL UK GMBH
LINX PRINTING TECHNOLOGIES PLC

List of Interested Parties

LOCAL AUTHORITIES CO-ORDINATORS OF REGULATORY SERVICES
LOCKWOOD LTD
LONDON BOROUGH OF BARKING & DAGENHAM
LONDON BOROUGH OF BRENT (ENVIRONMENTAL HEALTH)
LONDON BOROUGH OF LAMBETH
LONDON BOROUGH OF SOUTHWARK
LONDON FOOD CENTRE
LONDON METROPOLITAN UNIVERSITY
LONDON RETAIL MEAT TRADERS ASSOCIATION
LOVELL WHITE DURRANT SOLICITORS
LOVELLS
LYONS TETLEY LTD
LYSI HS
MACFARLANES
MALTSTERS ASSOCIATION OF GREAT BRITAIN
MANCHESTER RUSK CO LTD
MARDON PLC
MARKAZI JAMIAT AHLE HADITH
MARKS & SPENCERS
MASH DIRECT
MCCAIN FOOD (GB) LTD
MCCORMACK FOODS
MCDONALD'S RESTAURANTS LTD
MCKENNA & CO
MED & HEALTHCARE PROD REG AFFAIRS (MHRA)
MERIDIAN FOODS - TECHNICAL DEPARTMENT
MERIDIAN FOODS LTD
MERTHYR TYDFIL BOROUGH COUNTY COUNCIL
MICRON2 LTD
MIDWIVES INFORMATION AND RESOURCE SERVICE
MILTON KEYNES COUNCIL
MINISTRY OF DEFENCE
MITCHELLS & BUTLERS PLC
MJSR ASSOCIATES
MONMOUTHSHIRE COUNTY COUNCIL
MORELANDS LTD/MH FOODS LTD
MOY PARK LIMITED
MP MEDIA SERVICES
MR GIFTS
MRC HUMAN NUTRITION RESEARCH
MRC HUMAN NUTRITION UNIT
MULLER GROUP UK
MULTI LABELS LIMITED
MUSGRAVE RETAIL PARTNERS GB
MUSLIM COLLEGE
MUSLIM DOCTORS & DENTISTS ASSOCIATION
MY SUPERMARKET.COM
NATIONAL ASSOCIATION OF BRITISH AND IRISH MILLERS
NATIONAL ASSOCIATION OF CIDER & PERRY MAKERS
NATIONAL ASSOCIATION OF HEALTH STORES
NATIONAL ASSOCIATION OF MASTER BAKERS
NATIONAL BEEF ASSOCIATION
NATIONAL CHILDBIRTH TRUST
NATIONAL CONSUMER FEDERATION
NATIONAL COUNCIL OF HINDU TEMPLES UK
NATIONAL COUNCIL OF WOMEN
NATIONAL DRIED FRUIT TRADE ASSOCIATION
NATIONAL EDIBLE OIL DISTRIBUTORS ASSOCIATION
NATIONAL EXPRESS
NATIONAL FARMERS' UNION
NATIONAL FARMERS UNION (NFU)
NATIONAL FEDERATION OF CONSUMER GROUPS
NATIONAL FEDERATION OF FISHERMEN'S ORGANISATIONS
NATIONAL FEDERATION OF MEAT AND FOOD TRADERS
NATIONAL FEDERATION OF WOMEN'S INSTITUTES
NATIONAL HEART FORUM
NATIONAL HEART FOUNDATION OF AUSTRALIA
NATIONAL INSTITUTE FOR HEALTH AND CLINICAL EXCELLENCE (NICE)
NATIONAL INSTITUTE OF MEDICAL HERBALISTS
NATIONAL MARKET TRADERS' FEDERATION
NATIONAL OFFICE OF ANIMAL HEALTH (NOAH)
NATIONAL PHARMACY ASSOCIATION
NATIONAL PIG ASSOCIATION
NATIONAL SOCIETY FOR PHENYLKETONURIA
NATIONAL STARCH & FOOD INNOVATION
NATURAL HEALTH PRACTICE
NATURE'S OWN LIMITED
NCGFCO (DANIELS)
NCH ACTION FOR CHILDREN
NESTLE CONFECTIONERY (UK)
NETMUMS
NETWORK OF SIKH ORGANISATIONS UK
NEVILLE CRADDOCK ASSOCIATES
NEW COVENT GARDEN FOOD COMPANY
NEW ZEALAND FOOD SAFETY AUTHORITY
NEWCASTLE UPON TYNE CITY LIBRARY
NEWSPAPER SOCIETY
NMB CONSULTING
NORTH WEST PUBLIC HEALTH GROUP
NORTH YORKSHIRE EAST FEDERATION OF WOMEN'S INSTITUTE
NORTHAMPTONSHIRE COUNTY COUNCIL
TRADING STANDARDS
NORTHERN FOODS PLC
NORTHERN GENERAL HOSPITAL
NORTHERN IRELAND CHEST HEART & STROKE ASSOCIATION
NORTON ROSE
NORWEGIAN FOOD CONTROL AUTHORITY
NOTTINGHAMSHIRE COUNTY COUNCIL
NOVARTIS CONSUMER HEALTH
NUTRAGEN
NUTRI (IMPORTS & EXPORTS) LTD
NUTRICIA LTD
NUTRILAW
NUTRILICIOUS
NUTRITECH CONSULTANCY LTD
NUTRITION AND ALLERGY CLINIC
NUTRITION AND WELLBEING
NUTRITION ASSOCIATES
NUTRITION CONSULTANTS ASSOCIATION
NUTRITIONAL HEALTHCARE R & D

List of Interested Parties

O&F CONSULTING
ODDBINS
ODYSEA LTD
OFFICE OF THE CHILDREN'S COMMISSIONER
ORAFI
ORANGINA GROUP
ORCHARD HOUSE FOODS
ORGANIX BRANDS PLC
OXFAM FAIR TRADING COMPANY
OXFORDSHIRE COUNTY COUNCIL
PATERSON ARRAN-THE ROYAL BURGH
BAKERY
PEPSICO INTERNATIONAL LTD
PERRIGO UK
PESTICIDE ACTION NETWORK UK
PIZZA HUT (UK)
PLYMOUTH AND DISTRICT SOROPTIMIST
INTERNATIONAL
POTTERS HERBAL SUPPLIES LTD
POWER HEALTH PRODUCTS LTD
PREMIER FOODS
PREMIER GROCERY PRODUCTS LTD
PRIME MINISTER'S OFFICE
PRINCES FOUNDATION FOR INTEGRATED
HEALTH
PRINCIPAL FOOD MATTERS
PROPRIETARY ASSOCIATION OF GREAT
BRITAIN
PROTEIN TECHNOLOGY INTERNATIONAL
PROVISION TRADE FEDERATION
PULLINS BAKERS
QUALITY MEAT SCOTLAND
QUEEN ELIZABETH HOSPITAL
QUEST VITAMINS LTD
QVC
R TWINING AND CO LTD
READING SCIENTIFIC SERVICES LTD
REGISTER OF NUTRITIONAL THERAPISTS
RHM GROCERY
RIO TRADING COMPANY (HEALTH) LTD
ROADCHEF
ROCWELL NATURAL MINERAL WATER
RON DEWDNEY LTD
ROTHERHAM HEALTH AUTHORITY
ROTHERHAM NHS FOUNDATION TRUST
ROWARTH NUTRITION COLLEGE
ROYAL COLLEGE OF GENERAL
PRACTITIONERS
ROYAL COLLEGE OF MIDWIVES
ROYAL COLLEGE OF PAEDIATRICS AND CHILD
HEALTH
ROYAL COLLEGE OF PHYSICIANS
ROYAL COMMISSION ON ENVIRONMENTAL
POLLUTION
ROYAL FREE HOSPITAL HAMPSTEAD CAMPUS
ROYAL NATIONAL INSTITUTE FOR THE BLIND
ROYAL NATIONAL INSTITUTE OF BLIND PEOPLE
ROYAL PHARMACEUTICAL SOCIETY OF GREAT
BRITAIN
ROYAL SOCIETY FOR MENTALLY
HANDICAPPED CHILDREN & ADULTS (MENCAP)
ROYAL SOCIETY FOR PUBLIC HEALTH
ROYAL SOCIETY FOR THE PROMOTION OF
HEALTH
RSSL
RUPERT STANLEY COLLEGE OF FURTHER
EDUCATION
RUSSELL HUME
RYVITA CO LTD
S & D CHEMICALS LIMITED
S M A NUTRITION
S&B HERBA FOODS LTD
S&N UK
SAMUEL SMITH BREWERY
SANDWELL INFORMATION SERVICE
SCHOOL OF SCIENCE & TECHNOLOGY
SCOTCH WHISKY ASSOCIATION
SCOTTISH EXECUTIVE RURAL AFFAIRS DEPT
SCOTTISH FEDERATION OF MEAT TRADERS
ASSOCIATION
SCOTTISH FOOD AND DRINK FEDERATION
SCOTTISH SALMON PRODUCERS'
ORGANISATION
SCOTTISH WHOLEFOODS COLLECTIVE
WAREHOUSE LIMITED
SEA FISH INDUSTRY AUTHORITY
SEED CRUSHERS & OIL PRODUCERS
ASSOCIATION
SEEWOO FOODS LIMITED
SEFCOL INGREDIENTS LIMITED
SEVEN SEAS LTD
SHELLFISH ASSOCIATION OF GREAT BRITAIN
SHOOSMITH
SHS INTERNATIONAL LIMITED
SIKH MISSIONARY SOCIETY UK
SIMKINS PARTNERSHIP
SIMMONS & SIMMONS SOLICITORS
SIMPLY ORGANIC - SERIOUS FOOD COMPANY
SIMTOM FOOD PRODUCTS
SIS (SCIENCE IN SPORT) LTD
SLEAFORD QUALITY FOODS LIMITED
SLOUGH BOROUGH COUNCIL
SMA NUTRITION
SMALL INDEPENDENT BREWERS ASSOCIATION
SMH CONSULTANCY
SNACK, NUT & CRISPS MANUFACTURERS
ASSOCIATION
SOCIETY OF HOMEOPATHS
SODEXHO BUSINESS & INDUSTRY
SOLGAR
SOLGAR VITAMIN AND HERB
SOMERFIELD STORES LIMITED
SOUTH BANK UNIVERSITY
SOUTHALL AREA COMMUNITY NETWORK
SPRING SINGAPORE
ST GEORGE'S, UNIVERSITY OF LONDON
STAFFORDSHIRE COUNTY ANALYST
STARBAKE YORKSHIRE LTD
STEPHEN RHODES ASSOCIATES
STRUGAR NUTRITION CENTRE
STUTE FOODS LTD
SURREY COUNTY COUNCIL
SURREY TRADING STANDARDS
SUSTAIN: THE ALLIANCE FOR BETTER FOOD
AND FARMING

List of Interested Parties

TASTY FOODS CUISINE LTD
TAYLOR JOYNSON GARRETT
TESCO STORES PLC
TFX
THE BASIC SKILLS AGENCY
THE BRITISH MEDICAL ASSOCIATION
THE BRITISH STANDARDS INSTITUTION
THE CARING CLINIC
THE CO-OPERATIVE GROUP
THE DAIRY COUNCIL
THE EUROPEAN CONSUMERS' ORGANISATION
THE FOOD COMMISSION
THE FRESH FOOD KITCHEN LTD
THE NUTRITION SOCIETY
THE ROYAL COLLEGE OF MIDWIVES
THE SCOTCH WHISKY ASSOCIATION
THE SUGAR BUREAU
THOMAS LOWNES AND CO LTD
THOMPSON & CAPPER LTD
THORNTONS PLC
TINY DEOL
TRADING STANDARDS INSTITUTE
TRADITIONAL FARMFRESH TURKEY ASSOCIATION
TRANSPORT AND GENERAL WORKERS' UNION
TREATS ICE CREAM LTD
TULIP LTD
UCB PHARMA LIMITED
UDEX LTD
UK ACTION COMMITTEE ON ISLAMIC AFFAIRS
UK PUBLIC HEALTH ASSOCIATION
UK VLCD INDUSTRY GROUP
UNIGREG LIMITED
UNILEVER PLC
UNILEVER UK LIMITED
UNION OF MUSLIM ORGANISATIONS OF UK & EIRE
UNION PSD
UNITED BISCUITS (UK) LTD
UNITED FOODS INTERNATIONAL PLC
UNITED GROUP RMD
UNITED KINGDOM REGISTER OF ORGANIC FOOD STANDARDS
UNITED KINGDOM VINEYARDS ASSOCIATION
UNIVERSITY GLYNDWR
UNIVERSITY OF BIRMINGHAM
UNIVERSITY OF BRADFORD
UNIVERSITY OF DUNDEE
UNIVERSITY OF READING
UNIVERSITY OF SOUTHAMPTON
UNIVERSITY OF SUSSEX
UNIVERSITY OF WALES INSTITUTE CARDIFF
UNIV-VITE EXPORT LTD
VEGAN SOCIETY
VEGETARIAN & VEGAN FOUNDATION
VEGETARIAN ECONOMY AND GREEN AGRICULTURE
VEGETARIAN SOCIETY OF THE UNITED KINGDOM
VENTURE FOODS (UK) LIMITED
VINEGAR BREWERS' FEDERATION
VIRGIN TRAINS
VITRITION UK LTD
VOICEVALE LTD
VYDEX NUTRITION
WAITROSE LIMITED
WAITROSE LTD
WALES TUC
WALKER & SONS (LEICESTER) LTD
WALKERS CHARNWOOD BAKERY
WALSALL METROPOLITAN BOROUGH COUNCIL
WARBURTONS LTD
WARWICKSHIRE COUNTY COUNCIL
WEETABIX LIMITED
WELLFOODS LTD
WELLNESS FOODS LTD
WELSH ASSEMBLY GOVERNMENT
WELSH FOOD ALLIANCE
WESSEX FOODS
WEST BERKSHIRE DISTRICT COUNCIL
WEST YORKSHIRE JOINT SERVICES
WESTERN COMMUNITY HOSPITAL
WESTERN GROUP ENVIRONMENTAL
WESTLER FOODS LTD
WHICH?
WHITBREAD GROUP PLC
WHITBY SEAFOODS LTD
WHITWORTHS FOODS GROUP LTD
WICKHAM LABORATORIES LTD
WILD OATS NATURAL FOODS
WILTSHIRE COUNTY COUNCIL
WILTSHIRE DIRECT SERVICES
WINE AND SPIRIT TRADE ASSOCIATION
WM MORRISON SUPERMARKETS PLC
WOMEN'S FARMERS UNION
WOMENS FOOD & FARMING UNION
WOODS SUPPLEMENTS
XYROFIN (UK) LTD
YAKULT UK LTD
YO! SUSHI
YOUNGS SEAFOOD
ZOROASTRIAN TRUST FUNDS OF EUROPE

STATUTORY INSTRUMENTS

2009 No. 0000

FOOD, ENGLAND

**The Food Labelling (Nutrition Declarations) (England)
Regulations 2009**

<i>Made</i>	- - - -	<i>Nth Month 2009</i>
<i>Laid before Parliament</i>		<i>Nth Month 2009</i>
<i>Coming into force</i>	- -	<i>Nth Month 2009</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 16(1)(e), 17(1) and 48(1) of the Food Safety Act 1990(a), and now vested in him(b).

In accordance with section 48(4A) of that Act, he has had regard to relevant advice given by the Food Standards Agency.

As required by Article 9 of Regulation (EC) No. 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety(c), there has been open and transparent public consultation during the preparation and evaluation of these Regulations.

Title, application and commencement

1. These Regulations may be cited as the Food Labelling (Nutrition Declarations) (England) Regulations 2009, apply in relation to England only and come into force on 30th October 2009.

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- (a) 1990 c. 16. Section 1(1) and (2) (definition of “food”) was substituted by S.I. 2004/2990. Sections 17 and 48 were amended by paragraphs 12 and 21 respectively of Schedule 5 to the Food Standards Act 1999 (1999 c.28), (“the 1999Act”). Section 48 was also amended by S.I. 2004/2990. Section 53(2) was amended by paragraph 19 of Schedule 16 to the Deregulation and Contracting Out Act 1994 (1994 c.40), Schedule 6 to the 1999 Act and S.I. 2004/2990.
- (b) Functions formerly exercisable by “the Ministers” (being, in relation to England and Wales and acting jointly, the Minister of Agriculture, Fisheries and Food and the Secretaries of State respectively concerned with health in England and food and health in Wales and, in relation to Scotland, the Secretary of State) are now exercisable in relation to England by the Secretary of State pursuant to paragraph 8 of Schedule 5 to the 1999 Act. Functions of “the Ministers” so far as exercisable in relation to Wales were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) as read with section 40(3) of the 1999 Act and thereafter transferred to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c.32). Those functions so far as exercisable in relation to Scotland were transferred to the Scottish Ministers by section 53 of the Scotland Act 1998 (1998 c. 46) as read with section 40(2) of the 1999 Act.
- (c) OJ No. L31, 1.2.2002, p.1. That Regulation was last amended by Commission Regulation (EC) No. 202/2008 (OJ No. L60, 5.3.2008, p.17).

Amendment of the Food Labelling Regulations 1996

2.—(1) The Food Labelling Regulations 1996(a) are amended (in so far as they apply in relation to England) in accordance with paragraphs (2) to (5).

(2) In regulation 2(1) (interpretation)—

(a) in the definition of Directive 90/496 after the words “Commission Directive 2003/120/EC” insert “and Commission Directive 2008/100/EC”; and

(b) after the definition of “fat” insert the following—

““fibre”, in the context of nutrition labelling, means carbohydrate polymers with three or more monomeric units, which are neither digested nor absorbed in the human small intestine and belong to the following categories:

– edible carbohydrate polymers naturally occurring in the food as consumed;

– edible carbohydrate polymers which have been obtained from food raw material by physical, enzymatic or chemical means and which have a beneficial physiological effect demonstrated by generally accepted scientific evidence; or

– edible synthetic carbohydrate polymers which have a beneficial physiological effect demonstrated by generally accepted scientific evidence;”.

(3) For the entries in Table A (vitamins in respect of which claims may be made) in Schedule 6, Part II, substitute the entries set out in Schedule 1 to these Regulations.

(4) For the entries in Table B (minerals in respect of which claims may be made) in Schedule 6, Part II, substitute the entries set out in Schedule 2 to these Regulations.

(5) In Schedule 7, Part I, paragraph 5—

(a) at the end of sub-paragraph (g) for the full stop substitute a semi-colon; and

(b) after sub-paragraph (g) add the following sub-paragraphs:

“(h) 1 gram of fibre shall be deemed to contribute 8kJ (2 kcal);

(i) 1 gram of erythritol shall be deemed to contribute 0kJ (0kcal).”

Transitional provision

3. In regulation 50 (transitional provision), after paragraph (15) add the following as paragraph (16) —

“(16) In any proceedings for an offence under regulation 44(1)(b) it shall be a defence to prove that —

(a) the food concerned was sold before the 31st October 2012, and

(b) the matters constituting the alleged offence would not have constituted an offence under these Regulations if the amendments made by regulation 2 of the Food Labelling (Nutrition Declarations) (England) Regulations 2009(b) had not been in operation when the food was sold.”

Signed by authority of the Secretary of State for Health

Dawn Primarolo

Minister of State

Department of Health

Date

(a) S.I. 1996/1499, as last amended by S.I. 2007/3256. The definition of Directive 90/496 and paragraph 5 of Part 1 of Schedule 7 were both previously amended in relation to England by S.I. 2004/1512.

(b) S.I. 2009/—

SCHEDULE 1

Regulation 2(3)

Entries to be substituted in Table A (vitamins in respect of which claims may be made) in Schedule 6, Part II, to the Food Labelling Regulations 1996

<i>Column 1</i> <i>Vitamin</i>	<i>Column 2</i> <i>Recommended Daily Allowance</i>
Vitamin A	800 µg
Vitamin D	5 µg
Vitamin E	12 mg
Vitamin K	75 µg
Vitamin C	80 mg
Thiamin	1.1 mg
Riboflavin	1.4 mg
Niacin	16 mg
Vitamin B6	1.4 mg
Folic acid	200 µg
Vitamin B12	2.5 µg
Biotin	50 µg
Pantothenic acid	6 mg

SCHEDULE 2

Regulation 2(4)

Entries to be substituted in Table B (minerals in respect of which claims may be made) in Schedule 6, Part II, to the Food Labelling Regulations 1996

<i>Column 1</i> <i>Vitamin</i>	<i>Column 2</i> <i>Recommended Daily Allowance</i>
Potassium	2000 mg
Chloride	800 mg
Calcium	800 mg
Phosphorus	700 mg
Magnesium	375 mg
Iron	14 mg
Zinc	10 mg
Copper	1 mg
Manganese	2 mg
Fluoride	3.5 mg
Selenium	55 µg
Chromium	40 µg
Molybdenum	50 µg
Iodine	150 µg

EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations further amend the Food Labelling Regulations 1996 (“the principal Regulations”) in so far as they apply in relation to England. The principal Regulations extend to the whole of Great Britain.

2. These Regulations implement in England *(to be completed after consultation)*

3. The Regulations amend the principal Regulations in respect of the labelling requirements for foods *(to be completed after consultation)*

4. A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from the Labelling, Standards and Allergy Division of the Food Standards Agency, Aviation House, 125 Kingsway, London WC2B 6NH and is annexed to the Explanatory Memorandum which is available alongside the instrument on the OPSI website.