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Practice Group(s):
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'Health Claim' Definition to Be Interpreted Widely, EU Court Rules

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In its first judgment on Regulation 1924/2006 on nutrition and health claims made of foods, the Court of Justice of the EU adopted a broad interpretation of the definition of "health claim" by ruling that claims for merely temporary or fleeting effects of a food on human health, such as in the claim "easily digestible", are indeed health claims (*Case C-544/10 Deutsches Weintor*).

A health claim is defined as any claim that states, suggests or implies that a relationship exists between food and health. The Court stressed that since this definition does not provide information as to whether that relationship must be direct or indirect, or as to its intensity or duration, the term relationship "must be understood in a broad sense".

Regulation 1924/2004 prohibits beverages containing more than 1.2% by volume of alcohol from carrying health claims. A German wine was described on its label as "easily digestible" accompanied by a reference to reduced acidity. The Court was asked in essence whether that amounted to a health claim.

It was argued that, since digestion had only temporary or fleeting effects, a description such as "easily digestible" was not a health claim because it did not imply that the beneficial nutritional or physiological effect led to a sustained improvement in physical condition.

The Court rejected that argument. It ruled that "health claim" covered not only an implication that health would improve as a result of consuming a food but also an implication that adverse or harmful effects on health which would otherwise accompany or follow such consumption were reduced or absent. Moreover, a health claim refers not only to the temporary or fleeting effects of a specific instance of consumption of a food but also to the effects of repeated, regular, even frequent consumption.

A claim which suggests that a wine is readily absorbed and digested implies that the digestive system will not suffer, or will suffer little, and will remain relatively healthy and intact even after repeated consumption over an extended period of time. The claim might therefore suggest a sustained beneficial physiological effect (consisting in the preservation of a healthy digestive system) in contrast to other wines.

Demarcation "objective information" vs "health claims" unresolved

Contrary to the [Opinion](#) of the Advocate General Mazák delivered on 29 March 2012 on this matter, the Court did not embark on the heated discussion of whether objective, factual statements linking consumption of a food and effects on human health (e.g. "glucosamine is an essential component of cartilages") fall under the definition of health claim. According to Mazák, whilst the definition of health claim "is framed in fairly general terms", "for there to be a health claim within the meaning of [Regulation 1924/2006], the description must imply that the food concerned has ... specific health benefit or beneficial physiological effect".

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