Council of the European Union

**Brussels, 30 October 2017
(OR. en)**

13849/17

**DENLEG 83
AGRI 590
SAN 386**

COVER NOTE

From:	European Commission
date of receipt:	27 October 2017
To:	General Secretariat of the Council
No. Cion doc.:	D050888/01
Subject:	COMMISSION REGULATION (EU) …/… of XXX refusing to authorise a health claim made on foods, other than those referring to the reduction of disease risk and to children's development and health

Delegations will find attached document D050888/01.

Encl.: D050888/01

EUROPEAN
COMMISSION

COMMISSION REGULATION (EU) …/…

of XXX

refusing to authorise a health claim made on foods, other than those referring to the reduction of disease risk and to children's development and health

(Text with EEA relevance)

EN EN

COMMISSION REGULATION (EU) …/…

of XXX

refusing to authorise a health claim made on foods, other than those referring to the reduction of disease risk and to children's development and health

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 1924/2006 of the European Parliament and of the Council of 20 December 2006 on nutrition and health claims made on foods[1], and in particular Article 18(5) thereof,

Whereas:

(1)   Pursuant to Regulation (EC) No 1924/2006 health claims made on foods are prohibited unless they are authorised by the Commission in accordance with that Regulation and included in a list of permitted claims.

(2)   Regulation (EC) No 1924/2006 also provides that applications for authorisations of health claims may be submitted by food business operators to the national competent authority of a Member State. The national competent authority is to forward valid applications to the European Food Safety Authority (EFSA), hereinafter referred to as 'the Authority', for a scientific assessment, as well as to the Commission and the Member States for information.

(3)   The Authority is to deliver an opinion on the health claim concerned.

(4)   The Commission is to decide on the authorisation of health claims taking into account the opinion delivered by the Authority.

(5)   Following an application from Probi AB, submitted pursuant to Article 13(5) of Regulation (EC) No 1924/2006, the Authority was required to deliver an opinion on a health claim related to *Lactobacillus plantarum* 299v (Lp299v) and an increase of non-haem iron absorption (Question No EFSA- Q-2015-00696[2]). The claim proposed by the applicant was worded as follows: "*Lactobacillus plantarum* 299v increases non-haem iron absorption".

(6)   On 25 July 2016, the Commission and the Member States received the scientific opinion from the Authority, which concluded that the evidence provided was insufficient to establish a cause and effect relationship between the consumption of Lp299v and an increase of non-haem iron absorption. Accordingly, as the claim does not comply with the requirements of Regulation (EC) No 1924/2006, it should not be authorised.

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[1]   OJ L 404, 30.12.2006, p. 9.
[2]   EFSA Journal 2016;14(7):4550.

(7)   The comments from the applicant received by the Commission pursuant to Article 16(6) of Regulation (EC) No 1924/2006 have been considered when setting the measures provided for in this Regulation.

(8)   The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS REGULATION:

Article 1

The health claim listed in the Annex to this Regulation shall not be included in the Union list of permitted claims as provided for in Article 13(3) of Regulation (EC) No 1924/2006.

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Commission
The President
Jean-Claude JUNCKER