

Chartered Trading Standards Institute (CTSI) response to Office for Health Improvement and Disparities Consultation - Nutrition and health claims on food: proposed legislative reforms

Response sent to – nlcs-reul-consultation@dhsc.gov.uk

This response is being sent on behalf of The Chartered Trading Standards Institute and has been compiled by the expertise of CTSI members.

ABOUT CTSI

Founded in 1881 (as the 'Incorporated Society of Inspectors of Weights and Measures'), today's Chartered Trading Standards Institute (CTSI) is one of the world's longest-established organisations dedicated to the field of Trading Standards and Consumer Protection. And, after more than 140 years of progress, we remain immensely proud of our close association with the Trading Standards profession and the vital work it continues to do – promoting fair business practices, tackling rogue traders and, ultimately, protecting UK consumers.

At CTSI and through the trading standards profession we aim to promote good trading practices and to protect consumers. We strive to foster a strong vibrant economy by safeguarding the health, safety and wellbeing of citizens through empowering consumers, encouraging honest business, and targeting rogue practices. We provide information, guidance and evidence-based policy advice to support local and national stakeholders including central and devolved governments. CTSI is responsible for business advice and education in the area of Trading Standards and consumer protection legislation, including running the Business Companion service to provide clear guidance to businesses on how to meet their legal and regulatory obligations.

CTSI is contracted to undertake CCAS's administrative functions which facilitates high principles of assisted self-regulation through strict codes of trading practice. This ensures consumers can have confidence when they buy from members of an approved scheme and also raises the standards of trading of all businesses that operate under the relevant sector's approved code.

CTSI run training and development events for both the Trading Standards profession and a growing number of external organisations. We also provide accredited courses on regulations and enforcement.

Consultation response:

Proposal 1

It is a criminal offence to use an unauthorised nutrition or health claim - for example, one that is not included in the legislation. However, the current enforcement procedure does not align with other food labelling enforcement which is less bureaucratic, more proportionate, and largely welcomed by businesses and enforcement agencies alike.

An improvement notice regime enables a consistent and low-resource enforcement approach to labelling offences.

Do you agree or disagree to the introduction of an improvement notice regime for nutrition and health claims as an additional step for enforcement authorities in England?

Agree.

CTSI agree with the introduction of an improvement notice regime for unauthorised nutrition and health claims, as an additional step for enforcement authorities. This is because an improvement notice regime will align nutrition and health claims legislation, with other food labelling and information legislation. It will also enable a more proportionate, faster, and lower resource enforcement approach, in relation to the use of unauthorised nutrition and health claims.

CTSI agree that improvement notices should be an alternative enforcement option but not the only enforcement option. This is because, for persistent offenders, the issue with improvement notices can be having to continually serve improvement notices. CTSI acknowledge that it is an offence not to comply with an improvement notice. However, as improvement notices have a date to comply with them by, some businesses will comply by the date in an improvement notice but then later, fall back into non-compliance. If this happens on more than a few occasions, other enforcement options are necessary, rather than going round in circles continually serving improvement notices on a persistent offender.

Do you agree or disagree with allowing a 3 month notice period to bring in improvement notices?

Agree.

CTSI believe that 3 months is a sufficient notice period for enforcement officers and businesses to familiarise themselves with the additional enforcement tool of improvement notices.

Proposal 2

Revoking redundant tertiary legislation would allow us to tidy up the UK NLCS statute book, making it simpler to navigate.

Do you agree or disagree with removing redundant tertiary legislation relating to the authorisation of health claims?

Agree.

CTSI agree with removing redundant tertiary legislation relating to the authorisation of health claims. This is because revoking the approximately 60 pieces of redundant tertiary legislation, will reduce the amount of nutrition-related labelling, composition and standards (NLCS) Retained EU Law (REUL), on the UK statute book, making the NLCS statute book simpler to navigate. Also, because the effect of that legislation will not be lost, as each piece of tertiary legislation is already reflected in Regulation 432/2012, which will be retained.

Impacts and benefits

As these proposals either maintain existing standards or streamline enforcement processes, it is proposed that no new burdens for businesses would be created.

Through these reforms we believe that we will achieve the right balance between safeguarding the public health needs of consumers and the burden on industry through robust and proportionate regulation.

Do you agree or disagree with the impacts that have been identified as resulting from proposals set out within this consultation?

Agree.

CTSI agree that the proposals create no new burdens for business. This is because the proposals maintain existing legal requirements for businesses.

Are you aware of any impacts that have not been identified in this consultation?

CTSI are not aware of any impacts that have not been identified in this consultation.

Do you agree or disagree with the benefits these proposals would have which are referred to in the consultation?

Agree.

CTSI agree with the benefits these proposals would have. This is because the proposed reforms should maintain the safeguarding of the public health needs of consumers and fair trading for businesses, at the same time as reducing the enforcement burden and facilitating more proportionate enforcement, by providing the option of improvement notices, as well as reducing the amount of legislation.