

## Nutrition and health claims

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**Note:** although the United Kingdom has left the European Union, certain EU laws (known as 'retained' laws) will still apply until such time as they are replaced by new UK legislation; this means that you will still see references to EU legislation in our guidance.

### This guidance is for England and Wales

This guidance relates to prepacked food, food that is prepacked for direct sale, non-prepacked food (food sold loose etc), and food sold from catering establishments (cafés, restaurants, etc). It also applies to other types of food information, such as advertisements, websites and verbal statements (referred to as commercial communications).

The Food Information Regulations 2014 require that food information (including labelling) is accurate and not misleading.

The Nutrition and Health Claims (England) Regulations 2007 and the Nutrition and Health Claims (Wales) Regulations 2007 lay down rules for making nutrition and health claims.

## Claims

A claim is any food information, message or communication that is not required by law and that states, suggests or implies that food has certain characteristics. For example, a nutrition declaration that states the amount of protein in the food is not a 'claim' because a nutrition declaration is required by legislation; however, the statement 'A good source of protein' is a 'claim' because it is not required by legislation.

The definition of 'claim' includes both written and spoken information, and includes pictures, graphics and symbols.

There are three types of claims made on foods: general claims, nutrition claims and health claims.

General claims do not relate to nutrition or health and include all other statements made on food information - for example, 'Made with 100% renewable energy'.

There are no specific rules for general claims such as these; however, every statement that appears on your product and in any commercial communication that relates to your product (websites, promotional material, etc) must be true. If it is not, the food information will be considered misleading (a criminal offence).

Before making a claim, you should check to make sure the information is accurate and, ideally, have some evidence to back up the claim should it ever be challenged.

## General rules for all nutrition and health claims

All nutrition and health claims must follow these general rules, as well as any claim-specific rules.

**1.** The claim (presence, reduced, etc) being made about the energy, nutrient (protein, carbohydrate, fat, fibre, sodium, vitamins and minerals) or other substance must have been shown to have a beneficial nutritional or psychological effect.

In other words, the substance must have been scientifically proven to be good for the body or the mind.

**2.** The substance for which the claim is being made is:

- present in a significant amount (see below) or, if no significant amount has been set, present in a large enough quantity for the person eating the food to get the benefit being claimed
- not present or present in a sufficiently reduced quantity for the person eating the food to get the benefit being claimed

**3.** The substance for which the claim is being made must be present in the food in a format that can be used by the body.

Therefore, if the substance goes straight through the body without being absorbed you can't make the claim.

**4.** The amount of food that can reasonably be expected to be consumed provides a significant amount or, if no significant amount has been set, enough for the person eating the food to get the benefit being claimed.

**5.** The claim can only be made if the average consumer can be expected to understand it.

6. The claim must refer to the product once it is ready to eat in accordance with the manufacturer's instructions. For example, you could not make a fat-free claim on a powdered drink if the instructions specify that it should be made with full fat or semi-skimmed milk.

## Significant amounts

A sufficiently large amount of a substance to provide a beneficial effect from eating it is referred to as a 'significant amount'.

The amounts of certain nutrients that must be consumed daily to maintain a healthy body are given in Annex XIII to Regulation (EC) 1169/2011 *on the provision of food information to consumers* and reproduced in the table below. These amounts are referred to as the daily reference intake (RI). The RI is given in either milligrams (mg) or micrograms ( $\mu\text{g}$ ).

Vitamins and minerals that may be declared and their nutrient reference values

<b>Vitamin / mineral</b>	<b>Reference intake (RI) / nutrient reference value (NRV)</b>
vitamin A ( $\mu\text{g}$ )	800
vitamin D ( $\mu\text{g}$ )	5
vitamin E (mg)	12
vitamin K ( $\mu\text{g}$ )	75
vitamin C (mg)	80
thiamin (mg)	1.1
riboflavin (mg)	1.4
niacin (mg)	16
vitamin B6 (mg)	1.4
folic acid ( $\mu\text{g}$ )	200
vitamin B12 ( $\mu\text{g}$ )	2.5
biotin ( $\mu\text{g}$ )	50
pantothenic acid (mg)	6
potassium (mg)	2,000
chloride (mg)	800
calcium (mg)	800
phosphorus (mg)	700
magnesium (mg)	375
iron (mg)	14
zinc (mg)	10
copper (mg)	1
manganese (mg)	2
fluoride (mg)	3.5

<b>Vitamin / mineral</b>	<b>Reference intake (RI) / nutrient reference value (NRV)</b>
selenium (µg)	55
chromium (µg)	40
molybdenum (µg)	50
iodine (µg)	150

A significant amount is:

- 15% of the RI per 100 g / 100 ml of product consumed (for foods other than beverages)
- 7.5% of the RI per 100 ml of product consumed (for beverages)

Whether the product contains a significant amount depends on how much of the substance is in the portion of the food being consumed; therefore if the product:

- contains multiple portions, each must provide a significant amount
- is a single portion, the entire product must provide a significant amount

## **General prohibitions for health and nutrition claims**

Nutrition and health claims cannot be made if they:

- are false, ambiguous or misleading
- cause consumers to doubt the safety or the nutritional adequacy of other foods
- encourage people to eat excessive amounts of food or suggest that it is okay to do so
- state, suggest or imply that a balanced diet cannot provide sufficient nutrition
- refer to any change in bodily functions that could cause or exploit fear in consumers

## **Alcohol**

Any beverage with an alcohol content greater than 1.2% cannot bear health claims and can only bear nutrition claims that relate to reduced alcohol or reduced energy.

## **Nutrition claims**

A nutrition claim is any claim that states, suggests or implies that a food has beneficial nutritional properties due to the energy, nutrients or other substances that it either:

- contains or does not contain  
... or
- contains in an increased or reduced amount

'Nutrient' includes protein, carbohydrate, fat, fibre, sodium, vitamins and minerals.

Making any nutritional claim triggers the requirement to provide a full nutritional declaration, even if the product would normally be exempt from needing one (prepacked products only).

Full information on nutrition declarations can be found in 'Labelling of prepacked foods: nutrition declaration'.

Only certain nutrients can be included in the nutrition declaration; if the substance to which the claim relates cannot be included in the nutrition declaration you must:

- make a nutrition declaration as normal
- state the amount per 100 g / 100 ml of the substance in the same field of vision as the nutrition declaration (same field of vision means that the product can be held so that both pieces of information can be seen at the same time)

Only certain nutritional claims can be made and there are conditions that must be met before they can be made; these usually specify how much of the substance must be provided. Full details can be found in the attached 'Permitted nutrition claims' document.

## **Comparative nutrition claims**

Comparative nutrition claims are those that compare a property of one product to the same property of another product - for example, 'Contains half the sugar of similar products'.

Comparative claims are subject to the following rules:

- the product can only be compared to products in the same category of foods (for example, you couldn't compare the amount of calcium in a pint of milk to that in a chocolate bar)
- the comparison must be against a range of foods rather than a single competing product
- you can make comparisons to your own product (for example, '30% less salt than our standard beans') but you must also consider the composition of similar products to ensure your comparison is fair
- the products you are comparing against must not be able to satisfy the claim you are making on the product (for example, if you are making a 'source of zinc' claim on your product and stating 'X% more zinc than similar products' then none of the products you compared against should be able to satisfy a source of zinc claim - that is, they must provide less than 15% of the RI for zinc per portion consumed)
- the difference in the amounts of the substance must be stated
- all comparisons must be based on the same amount of food

## **Health claims**

A health claim is any claim that states, suggests or implies that there is a relationship between health and a food, a type of food or something in a food.

Making any health claim triggers the requirement to provide a full nutritional declaration, even if the product would normally be exempt from needing one (prepacked products only).

Full information on nutrition declarations can be found in 'Labelling of prepacked foods: nutrition declaration'.

Only certain nutrients can be included in the nutrition declaration; if the substance to which the claim relates cannot be included in the nutrition declaration you must:

- make a nutrition declaration as normal
- state the amount per 100 g of the substance in the same field of vision as the nutrition declaration

## Prohibited health claims

The following health claims cannot be made:

- claims that suggest that health could be affected by not consuming the food
- claims that refer to the rate or amount of weight loss, including:
  - statements (for example, 'Lose two stone in two weeks')
  - 'before and after' pictures
  - testimonials used in commercial communications (see below)
- claims that refer to recommendations of individual doctors or health professionals and other associations

## Types of health claim

There are two types of health claim:

- general non-specific
- specific

### General non-specific health claims

These are claims that say nothing specific but state, suggest or imply in general terms that consuming the product will provide health benefits.

Examples include:

- healthy
- good for you
- nutritious
- sense of wellbeing
- superfood
- invigorating
- antioxidant

General non-specific health claims (GNS) are permitted; however, if a GNS is used you must also include a specific health claim on the product (which will trigger the labelling requirements for specific health claims below).

The specific health claim used must be appropriate to the product; therefore the specific claim would need to relate to a substance that is in the product and present in a sufficient quantity to provide the beneficial effect (as per the general rules above).

An example of a general non-specific health claim supported by a specific authorised claim might be:

- 'X Energy - soar like an eagle'
- 'X Energy contains vitamins B6 and B12. B-group vitamins are essential micronutrients that are required for maintaining normal body functions'

### Specific health claims

These claims link a nutrient to a specific health benefit - for example: 'Calcium contributes to normal energy-yielding metabolism'.

All claims need to be authorised before they can be used and claims will only be authorised if the applicant

has provided enough scientific evidence to prove that there is a link between the substance and the health benefit being claimed.

You may only use authorised claims (the Great Britain nutrition and health claims (NHC) register can be found on the GOV.UK website). Once a claim is authorised it can usually be used by anyone, not just the person who made the application.

Claims that have been authorised on the basis of proprietary data are listed in a separate annex on health claims authorised on the basis of proprietary data. these claims may only be made by the business named in the entry for five years from the date of authorisation, after which they can be used by anyone.

Most authorised claims relate to vitamins and minerals; there are very few authorised claims relating to other substances. Examples of rejected claims include the antioxidant properties of green tea and lowered cholesterol from eating soy protein.

If you wish to make a claim about a substance for which no claim has been made within the EU, you can submit your claim for consideration by the European Commission. Please contact your local trading standards service for further advice.

Specific claims follow the general rules above; you cannot make the claim unless the substance is present in your product and in a suitably large amount to generate the claimed benefit.

Additionally, each claim has specific conditions that must be met; these can be found on the list of authorised health claims - for example, 'Vitamin C contributes to the reduction of tiredness and fatigue'. This claim can only be made if the amount of vitamin C in the portion consumed is at least a 'source' as explained in '**Permitted nutrition claims**' attached above.

## **Wording of authorised claims**

Each claim has specific wording (specified in the list of authorised claims). You are not required to use the specific wording and may make small alterations; however, you are not allowed to make a statement that is any stronger than the specified wording, or one that alters the meaning of the authorised claim.

For example:

- 'Zinc contributes to normal cognitive function' is the authorised claim
- 'Zinc helps your brain to work normally' would be permitted alternative wording because it means the same as the authorised wording
- 'Zinc supercharges your brain' would not be permitted because it is a much stronger statement than the approved wording

## **Multiple active substances**

Some claims list multiple active substances. Where this is the case the authorised claim can only be used if all active substances are present in the product in the proportions specified and subject to the conditions laid out in the list.

For example:

- substance: alpha-linolenic acid and linoleic acid essential fatty acids
- authorised claim: 'Essential fatty acids are needed for normal growth and development of children'

The claim can only be used if the proposed daily intake of the product provides at least 2 g of alpha-linolenic acid AND at least 10 g of linoleic acid.

## Health claims labelling

When using a specific health claim the product must also bear the following labelling:

- a statement indicating the importance of a varied and balanced diet and a healthy lifestyle
- the quantity of the food and pattern of consumption required to obtain the claimed beneficial effect (for example, 'One capsule per day with food')
- where appropriate, a statement addressed to persons who should avoid using the food (for example, energy drinks bearing the statement 'Not recommended for children or pregnant or breast-feeding women')
- an appropriate warning for products that are likely to present a health risk if consumed to excess (for example, 'Excessive consumption may produce laxative effects')

## Brand / trade names that contain health claims

'Brand name' means a name given by the maker to a product or range of products, especially a trademark - for example, 'Everyday Health - Pure Green Tea'.

In the example above, 'Everyday Health' is a general non-specific health claim (GNS) as it is suggesting a link between health and consuming the product.

Brand names can include GNS and specific health claims; any specific claims used as part of a brand name do not have to be authorised by the European Commission.

If a brand name includes any type of health claim, then an appropriate authorised specific claim must appear on the product following the same rules as outlined above (including labelling).

## Commercial communications

Food information is much broader than food labels and includes everything that is said about a product in a commercial context (for the purposes of selling or promoting the sale of the product).

Examples include:

- websites
- social media posts made by the business
- social media posts made by others and re-published or linked to in some way by the business
- printed adverts (magazines, posters, etc)
- radio and television adverts
- paid 'advertorials' (where someone is employed to write a review and in doing so makes claims about the product).
  - 'paid' includes consideration by other means (free product etc)



## **Nutrition claims**

Where a nutrition claim is made in a commercial communication it will trigger a nutrition declaration, which must appear in the commercial communication.

Where the commercial communication is not in a printed form (TV, radio, etc) it will trigger the need for a nutrition declaration on the product, regardless of whether the claim appears on the product or if the product was otherwise exempt from needing a declaration. This applies to prepacked products only.

## **Health claims**

The rules are the same regardless of the form of commercial communication. Only authorised specific claims can be made and any GNS used will trigger the need to include an appropriate specific claim and mandatory labelling in close proximity to where the GNS has been made.

Where a claim made on food is borderline (that is, arguments can be made for and against it being a health claim), any health claim made in a commercial communication will strengthen the argument that the claim on the product should be treated as a health claim because it shows a clear intention to link consumption of the product to health. This would especially apply if the product included information directing the consumer to the health claim (a web address, for example).

## **Health claims on food for sale in the EU and Northern Ireland**

The EU operates its own register of nutrition and health claims, which differs from the GB NHC register. Where food is intended for sale in the EU, only claims authorised for use in the EU may be used; as such you should confirm the status of any claim by checking the EU Register of Health Claims.

## **Penalties**

Failure to comply with trading standards law can lead to enforcement action and to sanctions, which may include a fine and/or imprisonment. For more information please see 'Trading standards: powers, enforcement and penalties'.

## **Key legislation**

Food Safety Act 1990

Regulation (EC) 1924/2006 *on nutrition and health claims*

Nutrition and Health Claims (England) Regulations 2007

Nutrition and Health Claims (Wales) Regulations 2007

Regulation (EU) No 1169/2011 *on the provision of food information to consumers*

Food Information Regulations 2014

Food Information (Wales) Regulations 2014

Last reviewed / updated: March 2021

## In this update

Information added about the Great Britain nutrition and health claims (NHC) register, and the difference between that and the EU register

## Please note

This information is intended for guidance; only the courts can give an authoritative interpretation of the law.

The guide's 'Key legislation' links may only show the original version of the legislation, although some amending legislation is linked to separately where it is directly related to the content of a guide. Information on amendments to legislation can be found on each link's 'More Resources' tab.

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<https://www.businesscompanion.info/en/quick-guides/food-and-drink/nutrition-and-health-claims>