MAKING NUTRITION AND HEALTH CLAIMS FOR ACTIVE NUTRITION PRODUCTS

How to market your products and stay within the law
The Nutrition and Health Claims Directive came into force in Dec 2006 to govern claims made on product packaging and marketing materials.

**Nutrition claim**
Based upon energy or nutrient content
E.g. High protein, low fat, source of calcium

**Health claim**
Relates food to health
E.g. Vitamin B6 supports protein synthesis
Where do the regulations apply?

On the web (inc social media)

Plus ALL consumer facing marketing communications AND B2B communications e.g. to gym owners, personal trainers
Nutrition claims

Permitted

- Anything on the list as long as compositional criteria are met
- E.g. Source of X, low X etc.
- E.g. Reduced X (as long as the nutrient is 25-30% less than the standard product)
- E.g. Lite/Light (as long as the product meets the Reduced criteria)

Not permitted

- X% fat free
- Comparative claims e.g. more calcium than a glass of milk
- Anything else not on the list

Conditions

- Compositional criteria must be met to ensure that a reasonable amount of the claimed nutrient can be eaten per serve
- Big 8 nutritionals must be labelled (Energy, protein, carbohydrate, sugar, fat, saturated fat, fibre, salt)
- Any claimed nutrients also labelled in nutrition table with % RI e.g. vitamin B6
- Include advice to consume a varied and balanced diet

https://ec.europa.eu/food/safety/labelling_nutrition/claims/nutrition_claims_en
Health claims

Permitted

• Anything on the register, as long as conditions met
• Non-specific claims like ‘good for you’ or ‘goodness’ must be supported by an approved health claim

Not permitted

• Any other claim not on the register
• E.g. protein keeps you fuller for longer; protein supports weight loss; protein / carbohydrate for muscle recovery
• Disease prevention/risk reduction
• Claims about rate or amount of weight loss e.g. drop a dress size; lose 10kg in a month

Conditions

• Big 8 nutritionals labelled per 100g (Energy, protein, carbohydrate, sugar, fat, saturated fat, fibre, salt)
• Any claimed nutrients also labelled in nutrition table with % RI
• Any claimed nutrients must be present at the recommended amount on the register
• Include recommendation that a varied and healthy diet is consumed
• Advise on amounts of nutrient required to obtain health effect

http://ec.europa.eu/food/safety/labelling_nutrition/claims/register/public/?event=register.home
What you CAN’T say about PROTEIN

**Recovery**
- Casein supports muscle recovery/development
- BCAAs promote muscle protein synthesis
- Protein promotes muscle repair after exercise
- Glutamine supports muscle growth/recovery
- BCAAs improve muscle recovery after exercise

**Speed of release**
- Whey protein = fast release; casein = slow

**Weight management**
- Protein reduces muscle loss when dieting
- Protein keeps you feeling fuller for longer

**Immune function**
- Whey protein/glutamine supports immune system
The claim:
• “MaxiNutrition helps provide your muscles with the proteins they need to recover, helping make you stronger and perform better”
• “MaxiNutrition proteins aid muscle recovery”

The adjudication:
• The only relevant authorised claims are "Protein contributes to a growth in muscle mass" and "Protein contributes to the maintenance of muscle mass"
• Reference to RECOVERY and PERFORMANCE does not have the same meaning to the consumer and exaggerates the original claim wording

The outcome:
The ad is not to be broadcast again in this form and future ads must not exaggerate the benefits of the products
ASA Adjudications WEIGHT LOSS

The claim:
- “Slender Blend”
- “Boosts metabolism, helps you to feel fuller for longer and helps you to ... support the development of lean and toned muscle”
- “High protein, low calorie weight loss shake/meal replacement”

The adjudication (part of a wider adjudication):
- The claims are not authorised on the EU Register
- The claim exaggerated the meaning of the authorised claim, because it implied that the intake of protein would lead to lean and toned muscles, rather than contributing to a growth in muscle mass
- The claim appeared to relate to the effects of the product as a whole, rather than the protein contained in the product

The outcome:
The claims must not appear again and future claims must be authorised on the EU Register and not exaggerations of approved wording; claims must reference ingredients not product
THE SLENDER BLEND
WEIGHT LOSS PERFECTED.

LOSE UP TO 4 POUNDS A WEEK

The Slender Blend is an easy to use, premium meal replacement shake for men and women that gives you fast results. Did we mention it tastes ama
The Slender Blend

Ingredients

Whey Protein Concentrate (milk), Skimmed milk powder (milk), Natural flavourings, Protein World Vitamin & Mineral Blend© (magnesium oxide, potassium chloride, ascorbic acid, mixed natural tocopherols, zinc gluconate, ferric ferrocyanide, vitamin K2-menaquinone, molybdenum chelate, manganese gluconate, beta carotene, cupric gluconate, nicotinamide, calcium d-pantothenate, pyridoxine hydro-chloride, thiamin hydrochloride, riboflavin, cholecalciferol, methylcobalamin, chromium picolinate, folic acid, potassium iodide, sodium selenite, d-biotin). Protein World Thermogenic Blend (Guarana Extract (22% caffeine) & Green Tea Extract (40% polyphenols), Sunflower Lecithin (Emulsifier), Sweetener (Sucrose).

Servings

2.6lb (1.2kg); 30 servings

NUTRITIONAL INFORMATION

Slender Blend (Vanilla/Banana/Strawberry/Salted Caramel/Cinnamon Roll/White Chocolate and Raspberry)

<table>
<thead>
<tr>
<th>Nutritional typical values</th>
<th>Per 100g</th>
<th>Per 40g Serving</th>
<th>Per 40g serving with almond milk</th>
<th>% RI per 40g serving*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Energy kJ</td>
<td>1473kJ</td>
<td>599kJ</td>
<td>840kJ</td>
<td>4.4</td>
</tr>
<tr>
<td>Energy kcal</td>
<td>335kcal</td>
<td>141kcal</td>
<td>238kcal</td>
<td>3.5</td>
</tr>
<tr>
<td>Fat</td>
<td>2.9g</td>
<td>1.3g</td>
<td>5.9g</td>
<td>0.8</td>
</tr>
<tr>
<td>Of which saturates</td>
<td>0.3g</td>
<td>0.5g</td>
<td>0.9g</td>
<td>-</td>
</tr>
<tr>
<td>Carbohydrate</td>
<td>21g</td>
<td>8.2g</td>
<td>8.6g</td>
<td>-</td>
</tr>
<tr>
<td>Of which sugars</td>
<td>21g</td>
<td>8.2g</td>
<td>8.6g</td>
<td>0.9</td>
</tr>
<tr>
<td>Fibre</td>
<td>0g</td>
<td>0g</td>
<td>1.6g</td>
<td>-</td>
</tr>
<tr>
<td>Protein</td>
<td>60g</td>
<td>24g</td>
<td>28g</td>
<td>-</td>
</tr>
<tr>
<td>Salt</td>
<td>1.45g</td>
<td>0.59g</td>
<td>1.1g</td>
<td>0.6</td>
</tr>
</tbody>
</table>
What you can’t say about CARBOHYDRATE

**Energy / performance**
- Glucose and fructose maximise delivery of energy to muscles (1:1 or 1:2 ratio)
- Carbohydrate for energy during endurance exercise or carbohydrate loading

**Weight management**
- Low GI foods maintain blood sugar
- Low GI foods support weight loss

**Recovery**
- Carbohydrate promotes muscle glycogen replenishment after exercise
The claim:
- “Works twice as fast as any other energy gel”

The adjudication:
- The claim suggests a nutritional benefit (providing energy at an increased rate) to those who take part in prolonged or high intensity exercise, compared to other energy gels.
- This claim is not listed in the Annex of the Nutrition and Health Claims Directive (the only claims relevant to energy are “low energy”, “energy-reduced” and “energy-free”).

The outcome:
The claims must not appear again and future claims must be listed in the Annex to the NHC legislation.
The claim:
• “Hydrates and fuels you better than water”

The adjudication:
• The relevant approved health claims are: "carbohydrate-electrolyte solutions enhance the absorption of water during physical exercise" and “…contribute to the maintenance of endurance performance during prolonged endurance exercise“
• While the product fulfils the requirements of these claims, the term “fuels” ≠ maintenance of endurance performance
• “Hydrates better than water” may have been acceptable as the authorised claim wording references water but the authorised performance claim does not reference water
• The claims referred to the product and not the ingredients (carbohydrates and electrolytes)

The outcome:
The claims must not appear again and future claims must be authorised on the EU Register and not exaggerations of approved wording; claims must reference ingredients not product
### What you can’t say about WEIGHT LOSS and PERFORMANCE

<table>
<thead>
<tr>
<th>Performance</th>
<th>Weight Loss</th>
</tr>
</thead>
<tbody>
<tr>
<td>Taurine helps delay fatigue</td>
<td>CLA supports fat burning or weight reduction</td>
</tr>
<tr>
<td>Caffeine increases alertness / improves concentration</td>
<td>CLA supports fat burning or weight reduction</td>
</tr>
<tr>
<td>Caffeine improves endurance performance/capacity</td>
<td>L-carnitine supports fat burning or weight reduction</td>
</tr>
<tr>
<td>L-arginine supports blood flow to muscles</td>
<td>Green tea extract supports fat burning</td>
</tr>
<tr>
<td>Caffeine reduces fatigue</td>
<td>Green tea extract increases metabolic rate</td>
</tr>
<tr>
<td>Caffeine increases metabolic rate</td>
<td>L-carnitine supports fat burning or weight reduction</td>
</tr>
<tr>
<td>Caffeine aids fat burning</td>
<td>Caffeine aids fat burning</td>
</tr>
</tbody>
</table>
ASA Adjudications WEIGHT LOSS

The claim:
- “Slender Blend… green tea extract, raspberry ketones and multi vitamins to the mix to curb those cravings and help you to become slimmer and more healthy … help you to control your calorie intake enabling you to lose weight healthily”
- “Fat Melter Capsules. Metabolism boosting supplement … help stimulate the thermogenic process and contribute to normal, lipid metabolic levels, while the caffeine content will help to boost energy. Use as an aid to weight loss”
- Several more similar claims across product portfolio

The adjudication:
- None of the cited claims associated with green tea extract, raspberry ketones, caffeine, choline, CLA, yerba mate, alpha lipoic acid, cayenne powder or L-carnitine were on the EU Register
- The claims referred to the product and not the relevant ingredients
- Before and after shots included in ad campaign indicated rate or weight loss

The outcome:
The claims must not appear again and future claims must be authorised on the EU Register and not exaggerations of approved wording; claims must reference ingredients not product
ASA Adjudications FAT BURNING

The claim:
• "BurnMax™ … boost energy levels and increase fat metabolism … Increases metabolism and fat loss
• BurnMax™ contains 18 active ingredients which work synergistically to help burn and metabolise fat stores when used alongside a healthy diet and training programme.
• Shown to help metabolise fat
• Choline Bitartrate - Choline is proven to increase fat metabolism
• BurnMax™ is the most advanced thermogenic fat burner on the market today. We have combined some of the most popular and well researched fat loss ingredients with unique extracts, such as Yerba Mate, a caffeine containing South American tea which is popular for its ability to suppress appetite and burn fat. Yerba Mate … is said to be a more effective fat burner than green tea extract. This specially formulated blend works synergistically to boost fat metabolism and help you achieve your fat loss and lean muscle targets".

The adjudication:
• None of the cited claims associated with caffeine or yerba mate were on the EU Register
• The claims referred to the product and not the relevant ingredients
• Authorised claim on choline requires minimum choline content that was not indicated and claim wording exaggerated (normal lipid metabolism ≠ fat burning)

The outcome:
The claims must not appear again and future claims must be authorised on the EU Register and not exaggerations of approved wording; claims must reference ingredients not product
ASA Adjudications ALKALISING

The claim:
• Our bodies are more acidic than they should be …
• Alkaline water / alkaline foods help to neutralise the body’s acids and restore the acid-alkaline balance
• The alkaline diet flushes out any acid build-up and it restores the chemical balance in the body.

The adjudication:
• Claims are not based upon published, peer-reviewed research
• Claims are not generally accepted by the scientific community
• Some marketing discourages essential treatment for medical conditions e.g. diabetes, cancer

The outcome:
The claims must not appear again and future claims must be authorised on the EU Register and must be substantiated by robust scientific evidence
## Permitted health claims relevant to muscle

<table>
<thead>
<tr>
<th>Claim wording</th>
<th>Nutrient</th>
<th>Conditions of use</th>
</tr>
</thead>
<tbody>
<tr>
<td>[Nutrient] contributes to normal muscle function</td>
<td>Calcium, magnesium, potassium, vit D</td>
<td>Source of nutrient (at least 15% reference intake; 7.5% for fluids per 100g/ml)</td>
</tr>
<tr>
<td>[Nutrient] contributes to normal protein synthesis/metabolism</td>
<td>Magnesium, vitamin B6, zinc</td>
<td>Source of nutrient (at least 15% reference intake; 7.5% for fluids per 100g/ml)</td>
</tr>
<tr>
<td>Protein contributes to maintenance of muscle mass</td>
<td>Protein</td>
<td>Source of protein (more than 12% energy from protein)</td>
</tr>
<tr>
<td>Protein contributes to a growth in muscle mass</td>
<td>Protein</td>
<td>Source of protein (more than 12% energy from protein)</td>
</tr>
<tr>
<td>Creatine increases physical performance in successive bursts of short-term, high intensity exercise</td>
<td>Creatine</td>
<td>3g of creatine provided per daily intake. The claim may be used only for foods targeting adults performing high intensity exercise.</td>
</tr>
<tr>
<td>Daily creatine consumption can enhance the effect of resistance training on muscle strength in adults over the age of 55.</td>
<td>Creatine</td>
<td>3g of creatine provided per daily intake. Over 55s engaging in resistance training 3x per week.</td>
</tr>
</tbody>
</table>
## Permitted health claims relevant to sport

<table>
<thead>
<tr>
<th>Claim wording</th>
<th>Nutrient</th>
<th>Conditions of use</th>
</tr>
</thead>
<tbody>
<tr>
<td>[Nutrient] contributes to normal energy-yielding metabolism</td>
<td>Vitamin B1, B2, B3, B6, B12, C, calcium, magnesium</td>
<td>Source of nutrient (at least 15% reference intake; 7.5% for fluids per 100g/ml)</td>
</tr>
<tr>
<td>Zinc contributes to the maintenance of normal testosterone levels in the blood</td>
<td>Zinc</td>
<td>Source of zinc (at least 15% reference intake; 7.5% for fluids per 100g/ml)</td>
</tr>
<tr>
<td>Pantothenic acid contributes to normal synthesis and metabolism of steroid hormones</td>
<td>Pantothenic acid</td>
<td>Source of pantothenic acid (at least 15% reference intake; 7.5% for fluids per 100g/ml)</td>
</tr>
<tr>
<td>Carbohydrate-electrolyte solutions contribute to the maintenance of endurance performance during prolonged endurance exercise</td>
<td>Carbohydrate and sodium</td>
<td>80-350kcal /L from carbohydrate (75% of which should be high GI) AND 460-1150mg sodium /L AND osmolality 200-330mOsm/kg water</td>
</tr>
<tr>
<td>Carbohydrate-electrolyte solutions enhance the absorption of water during physical exercise</td>
<td>Carbohydrate and sodium</td>
<td>80-350kcal /L from carbohydrate (75% of which should be high GI) AND 460-1150mg sodium /L AND osmolality 200-330mOsm/kg water</td>
</tr>
</tbody>
</table>
## Permitted health claims relevant to blood sugar

<table>
<thead>
<tr>
<th>Claim wording</th>
<th>Nutrient</th>
<th>Conditions of use</th>
</tr>
</thead>
<tbody>
<tr>
<td>Consumption of foods/drinks containing [intense sweeteners] instead of other sugars induces a lower blood glucose rise after their consumption compared to sugar-containing foods/drinks</td>
<td>xylitol, sorbitol, mannitol, maltitol, lactitol, isomalt, erythritol, sucralose and polydextrose; D-tagatose and isomaltulose</td>
<td>30% of sugars should be replaced by [intense sweetener]</td>
</tr>
<tr>
<td>Consumption of foods containing fructose leads to a lower blood glucose rise compared to foods containing sucrose or glucose</td>
<td>Fructose</td>
<td>30% of glucose/sucrose should be replaced by fructose</td>
</tr>
<tr>
<td>Consumption of beta-glucans from oats or barley as part of a meal contributes to the reduction of the blood glucose rise after that meal</td>
<td>Beta-glucan from oats</td>
<td>4 g of beta-glucans from oats or barley for each 30 g of available carbohydrates per portion</td>
</tr>
<tr>
<td>Chromium contributes to the maintenance of normal blood glucose levels</td>
<td>Trivalent chromium</td>
<td>Source of trivalent chromium (at least 15% reference intake; 7.5% for fluids per 100g/ml)</td>
</tr>
</tbody>
</table>
Take home messages

- Use only authorised health or nutrition claims
- Maintain original claim meaning: don’t exaggerate!
- Reference the nutrient NOT the whole product when making claims
- Check the product meets the claim conditions of use
- Ensure the relevant nutrients are labelled (big 8 plus claimed nutrients)
- Recommend varied and balanced diet
Claire Baseley Registered Nutritionist

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@clbnutrition

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