



Press and Information

General Court of the European Union

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Judgment in Case T-100/15

Dextro Energy GmbH & Co. KG v Commission

The General Court confirms that a number of health claims relating to glucose may not be authorised

The Commission did not err in finding that those claims encouraged the consumption of sugar, such encouragement being incompatible with generally accepted principles of nutrition and health

The German company Dextro Energy manufactures products in different formats made up almost entirely of glucose sugar for the German and European markets. The classic cube is made up of eight tablets of glucose of 6 grams each.

In 2011, Dextro Energy requested authorization¹ to use the following health claims: 'glucose is metabolised within the body's normal energy metabolism', 'glucose contributes to normal energy-yielding metabolism', 'glucose supports physical activity', 'glucose contributes to normal energy-yielding metabolism during exercise' and 'glucose contributes to normal muscle function during exercise'.²

Despite positive advice from the European Food Safety Authority (EFSA), which considered that a cause-and-effect link could be established between the consumption of glucose and normal energy-yielding metabolism, the Commission refused³ to authorise those health claims in January 2015. The Commission took the view that the health claims in question conveyed a contradictory and ambiguous message to consumers, as they encouraged the consumption of sugar, of which national and international authorities recommend a reduction on the basis of generally accepted scientific advice. Even if those health claims were to be authorised only subject to specific conditions of use and/or were accompanied by additional messages or warnings, the Commission considered that the message nevertheless remained confusing for consumers, with the result that the claims in question should not be authorised.

By today's judgment, the General Court dismisses the action brought by Dextro Energy, thereby upholding the Commission's decision.

The General Court observes in particular that, although the Commission does not question the advice from EFSA (the sole task of that authority being to verify whether the health claims are based on scientific evidence and whether the wording of the claims meet certain criteria), the Commission must, as a risk-management measure, take account of the applicable EU legislation as well as other legitimate and relevant factors. Since, according to generally accepted principles of nutrition and health, the average consumer must reduce their consumption of sugar, the Commission did not err in finding that the health claims in question, which highlight only the

¹ According 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 (OJ 2006 L 404, p. 9), health claims on labels and in the presentation of products or advertising are prohibited, unless they comply with the regulation, authorised pursuant and are included on the lists of authorised claims. Health claims thus authorised may be used by any trader in the food sector.

² For the first two claims, the target population was made up of the population in general, whilst the three other claims were aimed at active men and women in good health and well trained for endurance.

³ Commission Regulation (EU) 2015/8 of 6 January 2015 refusing to authorise certain health claims made on foods, other than those referring to the reduction of disease risk and to children's development and health (OJ 2015 L 3, p. 6). There was a consensus for that refusal amongst the representatives of the Member States in the Standing Committee on Plants, Animals, Food and Feed. Regulation 2015/8 allowed Dextro Energy to continue to use those claims for six months after its entry into force.

beneficial effects of glucose for energy metabolism without mentioning the dangers inherent in increased sugar consumption, were ambiguous and misleading and, accordingly, could not be authorised.

NOTE: An appeal, limited to points of law only, may be brought before the Court of Justice against the decision of the General Court within two months of notification of the decision.

NOTE: An action for annulment seeks the annulment of acts of the institutions of the European Union that are contrary to European Union law. The Member States, the European institutions and individuals may, under certain conditions, bring an action for annulment before the Court of Justice or the General Court. If the action is well founded, the act is annulled. The institution concerned must fill any legal vacuum created by the annulment of the act.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery

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