



Press and Information

Court of Justice of the European Union

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Judgment in Case C-296/16 P
Dextro Energy GmbH & Co. KG v Commission

The Court confirms that a number of health claims relating to glucose cannot be authorised

The Court dismisses Dextro Energy's appeal against the judgment of the General Court which found that the Commission had not erred in concluding that those claims encouraged the consumption of sugar, given that such encouragement is incompatible with generally accepted nutrition and health principles

The German company Dextro Energy manufactures various products, in different formats, made almost entirely of glucose for the German and European markets. The 'classic cube' is made up of eight tablets, each of which contains 6 grammes of glucose.

In 2011, Dextro Energy requested authorisation¹ to use the following health claims: 'glucose is metabolised within the body's normal energy metabolism'; 'glucose supports normal physical activity'; 'glucose contributes to normal energy-yielding metabolism'; 'glucose contributes to normal energy-yielding metabolism during exercise'; and 'glucose contributes to normal muscle function'.²

In January 2015, despite a positive opinion by 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. 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, whereas national and international authorities recommended a reduction in sugar intake, 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 statements or warnings, the Commission considered that the message nevertheless remained confusing for the consumer, with the result that the claims in question should not be authorised.

By judgment of 16 March 2016,⁴ the General Court dismissed Dextro Energy's application, thus confirming the Commission's decision.

In its judgment, the General Court observed, in particular, that, although the Commission had not questioned the advice given by 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 met certain

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 (O J 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, are authorised in accordance with the regulation and are included on the list of authorised claims. Health claims thus authorised may be used by any trader in the food sector.

² For the first and third claims, the target population was the general public, whereas the three other claims targeted active men and women in good health who are accustomed to endurance training.

³ Commission (EU) Regulation 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 consensus for that refusal among the representatives of the Member States on 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.

⁴ Judgment of the General Court of 16 March 2016, *Dextro Energy v Commission* (T-100/15; see also PR [No 30/16](#)).

criteria), it was required, as a risk-management measure, to take account of the applicable EU legislation as well as other legitimate relevant factors. Since, according to generally accepted nutrition and health principles, the average consumer must reduce his or her sugar consumption, the Commission did not err in finding that the health claims in question, which highlight only the beneficial effects of glucose for energy metabolism without mentioning the dangers inherent in increased sugar consumption, were ambiguous and misleading and could not therefore be authorised.

By today's judgment, the Court of Justice dismisses Dextro Energy's appeal against the judgment of the General Court as none of the arguments put forward by that company can succeed.

NOTE: An appeal, on a point or points of law only, may be brought before the Court of Justice against a judgment or order of the General Court. In principle, the appeal does not have suspensive effect. If the appeal is admissible and well founded, the Court of Justice sets aside the judgment of the General Court. Where the state of the proceedings so permits, the Court of Justice may itself give final judgment in the case. Otherwise, it refers the case back to the General Court, which is bound by the decision given by the Court of Justice on the appeal.

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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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