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30 November 2020

Dear Lewis

## **UK Common Frameworks – Provisional UK Common Framework on Nutrition labelling, Composition and Standards**

Thank you for your letter of 17<sup>th</sup> November 2020 which contained a number of questions relating to the Provisional Common Framework on Nutrition labelling, Composition and Standards.

Please see enclosed my response which has been prepared in discussion with officials from Food Standards Scotland, who provide policy advice to Ministers on these matters.

### **Regime being introduced**

***• Given this framework has been in development for some months, and given they are subject to a degree of parliamentary scrutiny, could early drafts or thinking have been shared with the Parliaments concerned? Is this to be the model for the remaining Common Frameworks?***

The development of this framework has followed a protocol which has been agreed across all four administrations. It was considered appropriate to wait until Ministers had reached a consensus view across the UK on the provisional framework before sharing with the Parliament. We realise that, given the number of frameworks and the redirection of resources to deal with Covid, this has meant that respective legislatures have been invited to scrutinise frameworks later than had been originally envisaged.

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For each provisional framework, the Scottish Government has made a commitment to share a technical summary and provide an update regarding the development process before the end of the year. This is intended to inform preparation for future parliamentary scrutiny once the policy content of the frameworks are more comprehensively developed. We also expect policy teams working on individual frameworks and relevant committee Clerks to use this initial, informal engagement to start discussions about what the formal scrutiny process might look like and the likely timeline for scrutiny in 2021. Formal scrutiny will then take place after the end of the Transition Period.

Scottish Government officials and Parliament officials are working together to agree a parliamentary scrutiny process for these frameworks. The Cabinet Secretary for the Constitution, Europe and External Affairs wrote to the Finance and Constitution Committee to provide [information on the parliamentary scrutiny process on 11 November](#) and to provide a further update on the number of full and provisional frameworks on 23 November respectively.

**• *What public or private consultation processes have the Scottish and UK Governments undertaken in developing the frameworks? Who has been in the room, and at which phase of the framework development?***

The Common Framework programme has been co-ordinated by the central Frameworks teams across the four administrations of the UK. Central Frameworks teams have been engaging with numerous stakeholders to gather views and share information on the general frameworks development process. Each specific framework area also has or will be subject to stakeholder engagement following clearance by portfolio Ministers, as part of Phase 3 of the framework development process.

For the Nutrition related Labelling, Composition and Standards (NLCS) framework, UK policy teams held a technical engagement session with stakeholders representatives from the food industry on 5th September 2019. The attendees are listed at Annex A. The same presentation and papers were provided to the UKG Department for Business, Energy and Industrial Strategy (BEIS) Business Expert Group. A summary document which was shared with stakeholders is included at Annex B.

In accordance with Common Framework guidance, the NLCS Framework has also completed two tiers of official level review and assessment. This has involved central Frameworks teams from each of the UK countries.

**• *Which SI notifications from the Scottish Government to the Parliament to date are relevant to this specific Framework?***

Nutrition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/651) – notified to the Committee on

The Nutrition (Amendment etc.) (EU Exit) Regulations 2020 (not yet made) – notified to the Committee on 8<sup>th</sup> September 2020

***Were there any concerns raised by stakeholders? What were they?***

Engagement with nutrition industry representatives from across the UK concluded the framework was supportive of business and considered that it would deliver consumer confidence in the process. Stakeholders were also reassured about the proposals for joint

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decision making and dispute resolution mechanisms. Stakeholders were supportive of the proposals but also noted:

- desire for greater levels of co-ordination between departments on food frameworks;
- desire for greater levels of co-ordination on communications with stakeholders;
- desired for clear engagement processes post exit;
- desire for increased levels of consultation.

Food policy in general already contains legislative requirements for stakeholder consultations, and in the case of the NLCS policy area specifically, this will include the opportunity to comment when the newly constituted UK Nutrition and Health Claims Committee (UKNHCC) publish a scientific opinion on an application for a new nutrition and health claim.

**• *Why is this framework important for Scotland?***

This framework covers an area of food law that is highly regulated at an EU level. The Statutory Instruments noted above repatriate the powers to approve new health claims and to change tertiary legislation across the policy area more generally. The framework describes the ways in which UK authorities will work together to deliver a service to stakeholders who may be interested in submitting a claim for a product marketed across the UK and GB in future. Many of these claims are likely to be made by companies marketing products across the UK as a whole and it is important that a co-ordinated approach to this area is taken.

**• *This is a non-legislative framework – why is a non-legislative approach appropriate? Was a non-legislative approach always the plan? If not, what changed?***

The UK Government identified this framework and a number of others as being an area where legislative underpinning might be necessary for it to function effectively. This was not a view that was shared by administrations across the UK for all framework areas, but we have continued to work to the principles which were agreed for framework development by the Joint Ministerial Committee for European Negotiations (JMC(EN)) in 2017. FSS officials involved in its development did not identify any areas that would require legislative underpinning to make this framework work effectively; indeed the framework itself is predicated on collaboration and agreement whilst respecting the fully devolved nature of the policy area.

***Is the framework fit for purpose? I.e. Do you believe that the framework can meet its aims?***

Yes. We consider that the framework can deliver what it sets out to do. However it should be noted that it was largely developed prior to the introduction of the Internal Market Bill which, as currently drafted, could threaten the proper functioning of the framework: the incentive to manage policy divergence by agreement is reduced as the Bill would require the automatic recognition of standards set in other parts of the UK. This point has been raised with the UK Government by the Scottish Government and stakeholders, but we have yet to receive a satisfactory answer.

**• *What is the view of other devolved governments? In particular Wales and Northern Ireland? Have other devolved assemblies considered this framework? If so, what was their view?***

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The timetabling for scrutiny by legislatures is intended to be concurrent therefore there are no formal views available from those legislatures at this point. The frameworks have been presented for scrutiny by legislatures because Ministers across the UK responsible for their development are satisfied with their progress to date and that their development has been in line with the principles agreed in 2017.

**• How does the framework interact with other frameworks under development? Can you update the committee on how the other frameworks are progressing – and explain how the parliament can suitably judge one without seeing the others?**

This framework shares a common root in food law with the Food and Feed Safety and Hygiene framework (being developed between FSS and Food Standards Agency) and the Food Composition, Standards and Labelling Framework (with Defra and FSA in Northern Ireland). Each of the framework areas have been developed in line with shared guidance and templates – each will have similar dispute resolution mechanism, for example, as well as setting out the bespoke arrangements required to deliver the repatriated functions sitting at the heart of each of the frameworks themselves. FSS-led framework areas are essentially designed to ensure that there is a coherent four-country approach to making changes to what will become retained food law and this has been split across three frameworks, largely to reflect the departmental leads across the UK. Each will comprise a Concordat and a Framework Outline Agreement. The Food and Feed Safety and Hygiene Framework will also revise an existing MoU with FSA to set out some of the detail as to how key policy making mechanisms will work in practice between those bodies.

As mentioned above, the Cabinet Secretary for the Constitution, Europe and External Affairs wrote to the Finance and Constitution Committee on [11 November to provide an update on frameworks and the parliamentary scrutiny process](#) and on 23 November to provide a general update on how individual frameworks are progressing.

The Scottish Government understands the Committee's concern at only having the opportunity to consider the NLCS framework without seeing other relevant frameworks. The pandemic and ongoing uncertainty around key cross-cutting issues, including the UK's negotiations and future trade relationship with the EU and the implementation of the Northern Ireland Protocol, have meant that it has been impossible to complete the full framework delivery process before the end of the Transition Period. The four administrations have therefore agreed the revised delivery plan, which includes the delivery of full and provisional frameworks by year end. This end of year deadline is, of course, an arbitrary and unnecessary deadline, which would have been avoided had the UK Ministers not refused to accept the EU's offer of an extension to the Transition Period.

While the four administrations have been able to progress the NLCS framework to the point where formal scrutiny is possible, this has not been the case in most remaining frameworks. In relation to the Food and Feed Safety and Hygiene framework, our ambition is to share it with the Health and Sport Committee as soon as possible.

**• The framework is accompanied by a concordat - why has this model been used? Is a concordat on these issues already in place? If so, how has it changed? Will this model be replicated for other common frameworks?**

Governance structure, including dispute avoidance and resolution mechanisms, must be set out in some form of non-legislative agreement across all non-legislative frameworks. The

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most common non-legislative vehicle used to agree a framework and set out governance structures is a concordat.

It should be noted that legislative frameworks may also have a concordat. Most frameworks will, therefore, be accompanied by a concordat. In relation to frameworks, the four administrations have defined a concordat as a non-binding non-legislative agreement that records the common intent and agreement between two or more parties. It defines the working relationships between collaborating groups or parties.

Whether a concordat is used or governance structures are set out elsewhere, perhaps in an exchange of letters, these governance structures should be aligned with both the overarching Memorandum of Understanding on Devolution (“MoU on Devolution”), recognising that it is currently under review, and the common frameworks principles agreed at JMC(EN) in October 2017.

Although a concordat is similar to a Memorandum of Understanding, the term ‘concordat’ has been used to distinguish these agreements from the overarching Memorandum of Understanding on Devolution.

**• *The Joint Ministerial (EU Negotiations) Communiqué – October 2017 - states that frameworks will “lead to a significant increase in decision making powers for the devolved administrations”. Is that the case for this framework?***

These food related frameworks are administrative arrangements, setting out ways of working between UK administrations. The UK fixing instruments, which have been presented to the Parliament for consent on a number of policy specific matters, repatriate the powers currently held at an EU level and provide for Ministers across GB to make changes to food law in future. The frameworks in these areas facilitate the delivery of these powers by Ministers, and provide assurance that both Scotland specific as well as UK wide considerations have been considered when recommendations to Ministers are made.

## **Governance and enforcement**

***Is the framework introducing complete regulatory alignment within the UK or does it allow for national flexibility/variation?***

As described above, whilst the framework will facilitate alignment across the UK, it also recognises that Ministers may wish to take a more tailored approach to this policy area in their own country. Any approach taken, whether to align or tailor accordingly, will be evidence led, in accordance with the processes set out in the framework itself.

**• *Does the framework introduce or maintain standards? If so, what standards does the framework introduce/maintain?***

One of the most significant policy areas covered by the framework is the processing of food health claims applications by businesses. The steps that must be taken for that process, including the submission of evidence to support the application are in largely set out in EU regulation which will be retained on a policy neutral basis at the end of the transition period. The framework has been designed to ensure the same degree of rigour and scrutiny applies to the assessment of such claims as currently applies at an EU level.

**• *Is the framework a continuation of the status quo? If so, is it regulatory alignment to the EU or to other international standards?***

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The framework describes how decisions will be made to change the law or authorise a health claim in future. Given that it is a four country model, the framework will by necessity have to consider whether changes made at an EU level might be appropriate in a GB context. In relation to nutrition health claims, any business seeking to supply food on a UK basis will require to submit dossiers to both EU and UK regulators.

**• *Is the governance regime significantly different from what was in place prior to the UK leaving the EU?***

Currently, the European Food Safety Authority (EFSA) is responsible for assessing health claims whereas decisions on such claims are made by the Commission. The role of EFSA is being replaced by the UKNHCC who will provide advice to Ministers on the substantiation of scientific evidence underpinning nutrition and health claim applications.

**• *What enforcement regime is envisaged? Who will be responsible for enforcement? By what authority will the enforcement agency act?***

The Food Safety Act 1990 provides local authorities with the powers to take action against businesses that make misleading claims on food. The Food (Scotland) Act 2015 also give scope through Regulations to use powers under the Act to address apparent contraventions of food information law. The Food Information (Scotland) Regulations 2014 enable enforcement authorities to seize or detain food where it appears that food information law is being contravened. There are no additional enforcement mechanisms arising as a result of the frameworks in this area.

**• *How will success be measured?***

We consider that success could be measured in a number of ways. Businesses should feel that the service of processing a claim is relatively seamless and will mirror that which takes place at an EU level currently, including decisions made within expected timeframes. In more general terms, we consider that the framework should facilitate genuine four country engagement on policy issues and would expect officials to escalate any issues through framework dispute resolution mechanisms as appropriate. We consider that frameworks are all that is necessary to provide for the administration of regulatory coherence once the UK exits the transition period and will work to refine them on a regular basis once live, notwithstanding that the Internal Market Bill threatens to undermine the good work in this area to date.

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## ANNEX A

Berry Ottaway & Associates  
British Retail Consortium (BRC)  
British Soft Drink Association (BSDA)  
British Specialist Nutritional Association (BSNA)  
Council Responsible for Nutrition (CRNUK)  
Food and Drink Federation (FDF)  
Food Tech Centre  
Health Food Manufactures Association  
Proprietary Association of Great Britain  
Provision of Trade Federation  
UK Public Health Network

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# Summary of Proposed Common Framework for Nutrition (nutrition related labelling, composition and standards) for which DHSC/DAs hold policy responsibility

## Introduction

Officials from UK Government (UKG) and the Devolved Administrations (DAs) have been jointly developing a UK-wide Common Framework for Nutrition, covering: nutrition related labelling, composition and standards, including nutrition and health claims in preparation for EU Exit. This paper summarises those jointly developed proposals.

The purpose of this summary is to communicate, ahead of the multilateral session on 05<sup>th</sup> September 2019, the progress made on the development of joint working across the UK in preparation for our Exit from the EU.

If you have any comments and/or queries regarding the content of this paper please contact us in advance of the event so that we may address them during the meeting.

## Background on Common Frameworks

EU law currently creates a consistent legal framework across the UK in a range of policy areas that are devolved. As the UK leaves the European Union the four UK administrations have agreed to work together to establish common approaches, known as Common Frameworks, in some areas which are currently governed by EU law but that are otherwise within areas of competence of DAs. Such a framework would set out a common UK approach including how it would function, setting out clearly the appropriate decision-making role of Ministers and the governance of any shared structures in line with the devolution settlement.

Frameworks may consist of: common principles or goals, a collective evidence base, harmonisation, limits on action, mechanisms for coordination and cooperation or mutual recognition, depending on the policy area and the objectives being pursued. Frameworks being developed across government may be implemented in a number of ways, including legislation, executive action, Concordats, or other means

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depending on the context in which the framework is intended to operate. These common frameworks provide a number of benefits, including making it simple for businesses from different parts of the UK to trade with each other thereby enabling a functioning UK internal market, and helping the UK to fulfil its international obligations.

The Joint Ministerial Committee (EU Negotiations) (JMC(EN)) on 16 October 2017 agreed a set of [principles](#) (Annex A) that would determine the creation of common frameworks and assess the impact that future divergence would have. These principles have been included in the development of the Nutrition Common Framework.

For further information on common frameworks, please refer to the UK Government's recent reports:

- First Parliamentary Report: [The European Union \(Withdrawal\) Act and Common Frameworks Report \(26th June 2018 to 25th September 2018\)](#)
- Second Parliamentary Report: [The European Union \(Withdrawal\) Act and Common Frameworks Report \(26th September 2018 to 25th December 2018\)](#)
- Third Parliamentary Report: [The European Union \(Withdrawal\) Act and Common Frameworks Report \(26th December 2018 to 25th March 2019\)](#)
- Fourth Parliamentary Report: [The European Union \(Withdrawal\) Act and Common Frameworks Report \(26th March 2019 to 25th June 2019\)](#)
- [Framework Analysis: \[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\\_data/file/792738/20190404-FrameworksAnalysis.pdf\]\(https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\_data/file/792738/20190404-FrameworksAnalysis.pdf\)](#)

## Nutrition Common Framework

Nutrition related labelling, composition, and standards (NLCS) is one of 24 policy areas identified in the [UKG Frameworks Analysis](#), published in March 2018, that were subject to more detailed discussion to explore whether common framework agreements were needed.

This policy area includes: nutrition and health claims made on foods; the addition of vitamins, minerals and certain other substances to foods; composition and labelling of food supplements; the composition and labelling of food intended for infants and young children, food for special medical purposes, and total diet replacement for weight control ("Foods for Specific Groups").

As a devolved policy area NLCS has been subject of detailed discussions between officials to establish: where a common framework might be needed to manage

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divergence within the UK after EU Exit, and the governance and decision-making processes for effective joint working and implementation.

It has been agreed across all four administrations that it is desirable to maintain a common approach for retained EU nutrition legislation. Officials have worked together to develop joint proposals. This paper summarises the areas that have been agreed in principle. It should be noted that these proposals are without prejudice to the views of Ministers. Annex C sets out the definitions for any abbreviations used within this paper.

It should be noted that the Nutrition Framework would respect the devolution settlements, as well as all established constitutional conventions and practices where relevant, to ensure that the decision-making powers of Ministers of the DAs are protected.

The Nutrition Framework would also adhere to the common frameworks principles agreed at JMC (EN) (Committee's Communique of 16 October 2017 – see Annex A).

It is anticipated that provisional agreement to the Nutrition Framework will be sought at JMC(EN) by early January 2020, after which the framework can be implemented. This would be followed by revision, as necessary, with an enduring Framework Agreement at the end of any implementation period (December 2020). Consideration of key cross-cutting issues such as domestic governance, functioning of the UK internal market and future funding will continue during the implementation period prior to finalisation of the framework.

Civil servants in Northern Ireland have had input of a technical and factual nature but are limited in the decisions they can take in the absence of an Executive. Discussions have been, and continue to be, without prejudice to the views of any future Executive in Northern Ireland.

### Scope of Framework

The scope of the Nutrition Framework extends to all areas of NLCS currently harmonised at EU level. Broadly the areas covered by EU nutrition legislation are:

- nutrition and health claims made on foods;
- the addition of vitamins, minerals and certain other substances to foods;
- composition and labelling of food supplements;
- the composition and labelling of food intended for infants and young children, food for special medical purposes, and total diet replacement for weight control (“Foods for Specific Groups”).

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Annex B sets out the specific legislation within scope of the Nutrition Framework.

While scope exists within current legislation to do things differently in different parts of the UK, for the purposes of maintaining free trade across the UK it is important that policy consistency is retained. It is therefore recognised that the potential for appropriate and proportionate divergence remains, in order to reflect or respond to country specific needs such as on public health grounds.

### Interdependencies

Interdependencies to the Nutrition Framework include the Food and Feed Hygiene Framework led by FSA and the Food Labelling and Composition Framework led by DEFRA. Both of these frameworks were also included in the 24 policy areas for common frameworks – requiring common approaches to risk assessment and risk management, related and overarching legislation e.g. Regulation (EU) No. 1169/2011 Food Information for Consumers (EU FIC) and Food Safety Act 1990 (in NI it is the Food Safety (NI) Order 1991), and related governance arrangements.

### Out of Scope

Areas that are out of scope are:

- enforcement – as Member States must enforce EU legislation different enforcement provisions already exist and are not affected by EU Exit; and
- existing legislation which is not EU derived e.g. Kava Kava

### Proposals

Whilst NLCS is a devolved area, the cross-border nature of the food industry requires close co-operation across the UK to provide clarity and assurance to business, enforcement and consumers.

The implementation of the Nutrition Framework would support this aim helping to maintain existing standards and establish replacement mechanisms for current EU functions (such as authorising new claims and amending retained lists of permitted claims and substances).

It is proposed that all policy areas within scope be covered by the Nutrition Framework which would be a non-legislative agreement. Adopting a non-legislative approach allows for maximum flexibility to adapt the framework as necessary and maintains a degree of trust and goodwill between the four administrations.

To be effective all parties to the Nutrition Framework would need to adhere to the JMC principles agreed in October 2017, new governance arrangements, and agreed

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ways of working. Proposals have therefore been developed collaboratively to provide common approaches for undertaking risk assessment, making policy recommendations (for Ministerial decisions) and resolving disputes.

The Nutrition Framework supports the continuation of existing good practice among the four administrations and emphasises information sharing, with all administrations being responsible for sharing information with all other parties in relation to the policy areas set out as being within scope.

Principles agreed in the framework would be applied to any future policy development, and all UK administrations would have equal opportunity to influence the outcome.

### What Would Change

The Nutrition (Amendment etc.) (EU Exit) Regulations 2019 transfer regulatory functions, such as authorising new nutrition or health claims and updating registers and lists, from the European Commission to appropriate authorities in the UK.

The appropriate authorities are, in relation to:

- England, the Secretary of State;
- Scotland, the Scottish Ministers;
- Wales, the Welsh Ministers;
- Northern Ireland, the Department of Health Northern Ireland.

Each of the appropriate authorities may legislate for their territory, and, where DA Ministers give consent, the Secretary of State may make regulations on behalf of the Devolved Administrations to cover whole or part of the UK.

The assessment of applications for new health claims, may therefore require a new body to provide scientific advice. Provision for a new body has been set out in the Nutrition (Amendment etc.) (EU Exit) Regulations 2019, together with procedures for the application and assessment process and decision-making.

The establishment of a new scientific advisory body for the whole of the UK would enable the pooling of resources, knowledge and expertise and would minimise duplication of process for both government and businesses helping to avoid consumer confusion.

### Governance and Ways of Working

A Concordat between DHSC, SG, WG and Department of Health Northern Ireland is proposed to underpin this non-legislative agreement. The Concordat would provide the basis for managing and maintaining commonality in approach and minimum standards as well as surveillance and sharing of information.

The Concordat would set out agreements including governance arrangements, decision making and dispute resolution. Working arrangements (both existing and new) would be established to support collaboration and coordination between all four administrations. The Concordat once agreed, would be signed by UK, SG, WG, and (when appropriate) NI ministers.

### Joint Risk Assessment and Risk Management (Policy Development) Mechanisms

It is proposed that risk assessments should be undertaken on a UK-wide basis to deliver a consistent approach and process for businesses and enforcement authorities across the UK (with capacity maintained for non-UK wide assessments where appropriate). The risk assessment processes would replicate, as closely as possible, those currently undertaken by the European Food Safety Authority (EFSA) and be independent and free from undue influence.

Decisions based on both scientific opinion and wider risk management considerations should be made by the appropriate authority (namely SofS, Scottish and Welsh Ministers and the Department of Health in Northern Ireland – or UKG with consent from the Devolved administrations) through the establishment of four-country working arrangements which build on existing consensus-based policy making.

Where appropriate, common policy recommendations would be made to the appropriate authorities. While Ministers would retain the right to take individual decisions for their country, for those areas within the scope of this Nutrition Framework, the opportunity for consistency of approach across administrations would be sought in the first instance. The ability to diverge where appropriate and proportionate would be retained, while taking account of its impact on consumer safety and confidence, and the functioning of the UK internal market in reaching a final decision.

Every effort would be made at working level to resolve any disagreements in difference of approach. Where a consensus cannot be reached by the four-country working arrangements (whether that is agreement to a UK wide approach or to divergence) a dispute resolution process would come into play.

### Dispute Prevention and Dispute Resolution

It is anticipated that the need for dispute resolution in areas within scope of the Nutrition Framework is unlikely. However, should it be needed, a dispute resolution process based on agreed principles e.g. evidence-based decision making, transparency and timely resolution would be included in the Nutrition Framework. This process would only be used if resolution at policy official level, has not been possible. It is recognised that in some areas a common approach would not always be needed in order to meet the JMC (EN) common frameworks principles.

### Pre-existing Divergence

This framework will not affect changes to policy where divergence already exists.

For example, there will be no changes to pre-existing divergence under Regulation (EC) No. 1925/2006 which covers minimum standards for fortification where voluntary fortification is introduced, such as in breakfast cereals. Country-specific derogation also permits mandatory fortification under certain circumstances. In the UK, mandatory fortification is stipulated in the Bread and Flour Regulations 1998 (in Northern Ireland equivalent regulations are the Bread and Flour Regulations (Northern Ireland) 1998) , and the Spreadable Fats (Marketing Standards) and the Milk and Milk Products (Protection of Designations) Regulations 2008 1998 (equivalent regulations apply in the DA's), which require those manufacturers to fortify their products to certain standards set by UKG. The SI for England was amended in 2013 to remove the need to fortify margarine with Vitamins A & D, however such requirements remain in place for the other 3 parts of the UK.

## NEXT STEPS

UKG and DA officials are continuing to work together to develop the detailed proposals for NLCS. Key areas of work over the next few months include:

- further development of the Nutrition Framework
- further development of the Nutrition Concordat

### Questions

1. Do you agree with, the rationale for a common framework in this area?
2. Do you agree the scope we have set out for this framework, and the exclusions?
3. Do you agree with the interdependencies identified?
4. Do you agree that the proposals meet the requirements of the JMC (EN) Principles?
5. Do you have any specific areas of concern with the proposals?

## Annex A

Extract from Joint Ministerial Committee (EU Negotiations) Communiqué (16 October 2017)

### **Common Frameworks: Definition and Principles**

#### **Definition**

As the UK leaves the European Union, the Government of the United Kingdom and the devolved administrations agree to work together to establish common approaches in some areas that are currently governed by EU law, but that are otherwise within areas of competence of the devolved administrations or legislatures. A framework will set out a common UK, or GB, approach and how it will be operated and governed. This may consist of common goals, minimum or maximum standards, harmonisation, limits on action, or mutual recognition, depending on the policy area and the objectives being pursued. Frameworks may be implemented by legislation, by executive action, by memorandums of understanding, or by other means depending on the context in which the framework is intended to operate.

#### **Context**

The following principles apply to common frameworks in areas where EU law currently intersects with devolved competence. There will also be close working between the UK Government and the devolved administrations on reserved and excepted matters that impact significantly on devolved responsibilities.

Discussions will be either multilateral or bilateral between the UK Government and the devolved administrations. It will be the aim of all parties to agree where there is a need for common frameworks and the content of them.

The outcomes from these discussions on common frameworks will be without prejudice to negotiations relevant to the UK's Future Economic Partnership with the EU.

#### **Principles**

1. Common frameworks will be established where they are necessary in order to:
  - enable the functioning of the UK internal market, while acknowledging policy divergence
  - ensure compliance with international obligations
  - ensure the UK can negotiate, enter into and implement new trade agreements and international treaties
  - enable the management of common resources;
  - administer and provide access to justice in cases with a cross-border element
  - safeguard the security of the UK

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1. Frameworks will respect the devolution settlements and the democratic accountability of the devolved legislatures, and will therefore:
  - be based on established conventions and practices, including that the competence of the devolved institutions will not normally be adjusted without their consent
  - maintain, as a minimum, equivalent flexibility for tailoring policies to the specific needs of each territory as is afforded by current EU rules
  - lead to a significant increase in decision-making powers for the devolved administrations
  
2. Frameworks will ensure recognition of the economic and social linkages between Northern Ireland and Ireland and that Northern Ireland will be the only part of the UK that shares a land frontier with the EU. They will also adhere to the Belfast Agreement.

## Annex B

## Legislation

Policy Line/Issue	Definition and Scope	Legislation and Dates of Compliance	Country-specific Derogation
Nutrition Declaration	<p>This covers general food labelling rules, essentially as set out in EU 1169/2011 food information to consumers (FIC) Regulations. These include areas mainly overseen by the Department for Environment, Food &amp; Rural Affairs (DEFRA) including origin labelling, presentation of ingredients, exemptions, meat content etc and as a result DEFRA has the lead on general food labelling.</p> <p>Nutrition, which is led by the Department of Health and Social Care (DHSC), is covered in EU 1169/2011 Section 3, articles 29-35. These regulations relate to the majority of prepacked food, covering: mandatory back-of-pack labelling and additional forms of expression, calculation and expression of nutritional content, and labelling presentation. It also covers the expression of voluntary nutrition information including repeat nutrition labelling on the front of prepacked foods, nutrition labelling on non-prepacked foods, and nutrition (energy) labelling for alcoholic drinks.</p> <p>Please note:</p> <ul style="list-style-type: none"> <li>- EU 1169/2011 legislation in England is overseen by DEFRA but the</li> </ul>	<ul style="list-style-type: none"> <li>• Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers.</li> <li>• Compliance dates: 13 December 2014, except for nutrition declarations which applied from 13 December 2016, following a two-year transition.</li> </ul>	<ul style="list-style-type: none"> <li>•</li> </ul>

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	<p>nutrition aspect is led by DHSC.</p> <ul style="list-style-type: none"> <li>- Food supplements and natural mineral waters are excluded (these are covered by Directive 2002/46/EC and Directive 2009/54/EC respectively).</li> <li>- General alcohol labelling is under DEFRA's jurisdiction.</li> </ul> <p>Existing mandatory elements will be carried over with replacement mechanisms where appropriate being covered in the Concordat</p>		
Food Supplements	<p>Directive 2002/46/EC covers: the permitted list of vitamins and minerals used as ingredients of food supplements, their minimum and maximum values, labelling presentation, permitted notification requirements, and safeguarding measures.</p> <p>Please note:</p> <ul style="list-style-type: none"> <li>- Food supplements must also comply with the general food labelling requirements [see section on Nutrition Labelling].</li> </ul>	<ul style="list-style-type: none"> <li>• Directive 2002/46/EC of the European Parliament and of the Council of 10 June 2002 on the approximation of the laws of the Member States relating to food supplements.</li> <li>• Compliance date: 12 July 2002.</li> </ul>	<ul style="list-style-type: none"> <li>• Article 4(6) of Directive 2002/46/EC states that: Member States may allow use of vitamins and minerals not listed in Annex I on certain conditions (see article 4 (6)(a) and (6)(b)). This stipulation expired 31 December 2009.</li> </ul>
Fortified Foods/Vitamins and Minerals Added to Food	<p>Regulation (EC) No 1925/2006 covers vitamins and minerals that can be added to foods.</p> <p>Only those vitamins and minerals listed in Annex 1 to the Regulation, in the forms listed in Annex 2 to the Regulation may be added. This Regulation allows for the setting of purity criteria for vitamins and minerals, outlines the</p>	<ul style="list-style-type: none"> <li>• Regulation (EC) No 1925/2006 of the European Parliament and of the Council of 20 December 2006 on the addition of vitamins and minerals and of certain other substances to foods.</li> <li>• Compliance date: 1 July 2007.</li> </ul>	<ul style="list-style-type: none"> <li>• Article 11 of 1925/2006 states that: Member States must inform the Commission of existing national provisions on the mandatory addition of vitamins and minerals by 19 July 2007. If the Member State deems it necessary to adopt new</li> </ul>

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	<p>conditions for the addition of vitamins and minerals including allowing maximum and minimum amounts to be set, labelling and advertising restrictions, allows for the prohibition of or conditions for the addition of substances to food, and establishes a register of the vitamins and minerals that may be added to foods. It also contains safeguard procedures in case of a Member State's concerns about an impact on public health.</p> <p>-</p>		<p>legislation on the mandatory addition of vitamins and minerals or the prohibition/restriction on the use of certain other substances, it shall notify the Commission and take the measures only six months following the notification (and an affirmative response).</p>
<p>Nutrition and Health Claims Made on Food</p>	<p>Regulation (EC) No 1924/2006 on nutrition and health claims made on foods sets out what nutrition and health claims are and sets conditions for their use. Only nutrition claims that are listed in the Annex are permitted, and any health claims must be authorised. The Regulation establishes general principles for claims, such as that they must not: be false/misleading, encourage/condone excess consumption of a certain food, or suggest that varied and balanced diets cannot provide insufficient nutritional value. It allows for the setting of nutrient profiles as a condition for the use of nutrition or health claims. The regulation covers the role of the Commission and the European Food Safety Authority (EFSA), in authorising claims, as well as safeguarding measures etc.</p>	<ul style="list-style-type: none"> <li>• 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.</li> <li>• Compliance date: 1 July 2007.</li> </ul>	<ul style="list-style-type: none"> <li>• None</li> </ul>

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<p>Foods for Specific Groups</p>	<p>1. Regulation 609/2013 on food intended for infants and young children, food for special medical purposes, and total diet replacement for weight control. The regulation covers how relevant products are placed on the market, scientific opinions of the authority, general composition and information requirements and technical guidelines. Labelling must not be misleading to the consumer or attribute to the food the property of preventing, treating or curing a human disease.</p> <p>Infant formula and follow-on formula requires labelling, presentation and advertising to be designed so that it does not discourage breastfeeding, nor include picture or text idealising its usage. See the legislation column (right) for repealed directives and regulations.</p> <p>2. Commission Directive 2006/141 on infant formulae and follow on formulae (in force until 21/02/20)</p> <p>3. Commission Directive 1996/08 on foods intended for use in energy restricted diets for weight reduction (in force until 27/10/22)</p>	<p>1. Regulation (EU) No 609/2013 of the European Parliament and of the Council of 12 June 2013 on food intended for infants and young children, food for special medical purposes, and total diet replacement for weight control. This repeals:</p> <ul style="list-style-type: none"> <li>- Council Directive 92/52/EEC</li> <li>- Commission Directive 96/8/EC</li> <li>- Commission Directive 1999/21/EC</li> <li>- Commission Directive 2006/125/EC</li> <li>- Commission Directive 2006/141/EC</li> <li>- Directive 2009/39/EC of the European Parliament and of the Council and Commission Regulations (EC) No 41/2009 and (EC) No 953/2009.</li> <li>- In force from 20 July 2016, apart from Articles 11, 16, 18, and 19 which were in force from 19 July 2013.</li> </ul> <p>2. Commission Directive 2006/141 came into force on 19 January 2007.</p> <p>3. Commission Directive 1996/8 came into force on 26 March 1996.</p>	<ul style="list-style-type: none"> <li>• None</li> </ul>
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	<p>4. Commission Directive 1999/21 on food for special medical purposes (in force until 21/02/19 and partly in force until 21/02/20)</p> <p>5. Commission Directive 2006/125 on processed cereal based foods and baby foods for infants and young children</p> <p>6. Commission Delegated Regulation (EU) 2016/128 of 25 September 2015 supplementing Regulation (EU) No 609/2013 of the European Parliament and of the Council as regards the specific compositional and information requirements for food for special medical purposes.</p>	<p>4. Commission Directive came into force on 27 April 1999.</p> <p>5. Commission Directive 2006/125 came into force on 26 December 2006.</p> <p>6. Regulation (EU) 2016/128 will come into force over 2019-2020, replacing the directives named in 2, 3, 4, and 5 in the definition and scope column.</p>	
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## Annex C

### DEFINITIONS

In this framework the following definitions are used:

- **Appropriate authority.** The appropriate authorities are in relation to:
  - England, the Secretary of State
  - Scotland, the Scottish Ministers
  - Wales, the Welsh Ministers
  - Northern Ireland, the Department of Health Northern Ireland
- **Concordat.** This is a multilateral political agreement, which indicates a common line of action. It is often used where a legal commitment would not be required or appropriate.
- **DEFRA.** The Department for Environment Food and Rural Affairs
- **DHSC.** The Department for Health and Social Care
- **EFSA.** The European Union agency that provides independent scientific advice and communicates on existing and emerging risks associated with the food chain.
- **FEP.** Future Economic Partnership (with European Union).
- **FSA.** The Food Standards Agency are a non-ministerial Government Department responsible for protecting public health and consumers' wider interests in food.
- **FSS.** Food Standards Scotland is the public sector food body for Scotland, ensuring that information on safety, standards and nutrition is independent, consistent and evidence-based.
- **JMC.** The Joint Ministerial Committee (JMC) is a set of committees, comprised of ministers from the UK and devolved governments, providing central coordination of the overall relationship between the UK and the devolved nations.
- **NLCS.** Nutrition health claims, composition and labelling
- **NI.** The Department of Health Northern Ireland
- **SG.** Scottish government
- **WG.** Welsh Government