

June 2023

## International Survey on Chicory Inulin ads with health claims (internal report)

The UK Advertising Standards Authority (ASA) requested information and guidance from other SROs in regard to two investigations they have into ads using the authorised specific health claim *"Chicory inulin contributes to normal bowel function by increasing stool frequency"* in relation to native chicory inulin. The conditions of use for the claim are as follows:

*"Information shall be provided to the consumer that the beneficial effect is obtained with a daily intake of 12g chicory inulin. The claim can be used only for food which provides at least a daily intake of 12g of native chicory inulin, a non-fractionated mixture of monosaccharides (<10%), disaccharides, inulin-type fructans and inulin extracted from chicory, with a mean degree of polymerisation > or = 9"*

We have surveyed our members if they have had any information or guidance on the claim, or health claims that feature similar conditions of use.

### Questions:

1. **Has your SRO dealt with any similar authorised health claims?**
  - a. If yes, what was the outcome. Can you provide a summary or web link to the decision?
2. **Are you aware of any national case law, or EC guidance, that might have addressed the issue we are looking at?**
  - a. If yes, please provide a web link to that case law and/or EC guidance

ICAS and EASA received a total of 9 answers from SROs from Europe, Brazil, India and the USA.

Country	SRO	Response
Brazil	CONAR	<p>CONAR mentions a similar criterion is adopted by the competent Regulatory Agency in Brazil (ANVISA). The difference is the quantity that allows the disclosure of the declaration (10g).</p> <p>Link: <a href="#">INSTRUÇÃO NORMATIVA - IN N° 102/2021</a> // “List of claims authorized for use in the labelling of food supplements and respective compositions and labelling requirements, included in Annex V” (Annex V; page 11).</p> <p><b>Authorized Claims:</b>  <i>Chicory inulin/oligofructose/FOS are fibers that can promote bowel regularity by increasing the frequency of bowel movements.</i></p> <p><b>Specific composition and labelling requirements</b>  <i>The claim is restricted to food supplements that provide at least 10 g of inulin or chicory fructo-oligosaccharides in the recommended daily consumption</i></p> <p>Regarding CONAR, they had not reviewed a case on this specific claim, and they are not aware of any national case law addressing this issue in Brazil.</p>
France	ARPP	ARPP has no complaints about it.
Germany	WBZ	WBZ has no complaints about it.
Germany	DW	This is out of remit as it falls under the competence of the WBZ.
India	ASCI	<p>ASCI has not taken up any matter specific to the health claim “Chicory inulin, however, we are sharing information about claims on health benefits for specific food products, where the food regulator has clearly called out the requirement/conditions when making health claims/reduction of disease risk claims/health claims for fortified foods. The details of the same are required to be mentioned on the packaging and in the advertisement.</p> <p>Click here for the link to the <a href="#">FSSAI Advertising Claims Regulations regulations</a>. Ref to point 7 Health claims, Schedule III and IV.</p> <p>Please refer to the <a href="#">linked</a> document for the list of cases.</p>
Luxembourg	CLEP	CLEP has no complaints about it.

Netherlands	SRC	SRC has no complaints about it.
Switzerland	SLK	SLK has no complaints about it.
USA	BBB National Programs	<ol style="list-style-type: none"> <li>1. NAD has not dealt with any health claims for chicory inulin.</li> <li>2. The U.S. Food &amp; Drug Administration (FDA) authorizes specific “health claims” to be made on food labels, meaning claims that characterize the relationship between a nutrient and a particular health condition. FDA has not authorized any claims for chicory inulin (or any other inulin) and bowel function. However, when FDA authorizes health claims, it sets a requirement as to the amount of the nutrient the food must have in order to make the claim. For example, for a product containing calcium to make a claim about reducing osteoporosis, a serving of the food must contain at least 200 mg. of calcium. [<a href="#">Small Entity Compliance Guide: Health Claims on Calcium and Osteoporosis; and Calcium, Vitamin D, and Osteoporosis   FDA</a>].</li> <li>3. The FDA regulations apply only to food labeling, not advertising. The Federal Trade Commission regulates food advertising and does not enforce FDA labeling regulations but seeks to harmonize its enforcement approach with FDA’s. When it comes to the issue of how much of a nutrient a food must have in order to make a health claim, the FTC has said: <p>The Commission shares FDA's view that health claims should not be asserted for foods that do not significantly contribute to the claimed benefit. A claim about the benefit of a product carries with it the implication that the benefit is significant.<sup>96</sup> Thus, consistent with its position on the use of absolute nutrient content descriptors and unqualified comparative nutrient content claims, the Commission will ordinarily apply FDA's thresholds for specific nutrient levels in examining unqualified health claims for the specific nutrient levels that are the subject of the particular health claim.</p> <p>See section VI.C of the <a href="#">Enforcement Policy Statement on Food Advertising   Federal Trade Commission (ftc.gov)</a>.</p> </li> </ol>