

FAC Review of the use of the terms Fresh, Pure, Natural etc. in Food Labelling 2001

Further copies may be obtained from:

Food Standards Agency
PO Box 369
Hayes
Middlesex
UB3 1UT

Telephone: 0845 606 0667

Fax: 0208 867 3225

Minicom: 0845 606 0678

E-mail: foodstandards@eclogistics.co.uk

Contents

Foreword	1
Guidance on the Use of Terms such as Fresh, Natural, Pure etc.	
Background	3
Introduction	4
Discussion	6
Conclusions	12
Appendix 1: Recommended Criteria for the Use of the Term ‘Fresh’ in Food Labelling and Advertising	15
Appendix 2: Recommended Criteria for the Use of the Term ‘Natural’ in Food Labelling and Advertising	23
Appendix 3: Recommended Criteria for the Use of the Term ‘Pure’ in Food Labelling and Advertising	29
Appendix 4: Recommended Criteria for the Use of the Term ‘Traditional’ in Food Labelling and Advertising	33
Appendix 5: Recommended Criteria for the Use of the Term ‘Original’ in Food Labelling and Advertising	37
Appendix 6: Recommended Criteria for the Use of the Term ‘Authentic’ in Food Labelling and Advertising	39
Appendix 7: Recommended Criteria for the Use of the Term ‘Home-made’ in Food Labelling and Advertising	43
Appendix 8: Recommended Criteria for the Use of the Term ‘Farmhouse’ in Food Labelling and Advertising	45
Appendix 9: FAC Terms of Reference, Membership and Secretariat	47

Foreword

Food labelling has always been of key interest to the Food Advisory Committee. The Committee has, over a number of years, endeavoured to play its part in developing a framework that ensures that consumers have access to the information they need in order to make an informed choice about the food they buy. It is important that the information presented is accurate but does not mislead the consumer. This guidance is presented to the Food Standards Agency in our continued pursuit of that goal.

In recent years, the Committee has tried to obtain more direct input from the wider public about issues relevant to our work. It was for this reason that we asked for research to be carried out into consumers' attitudes, following reports that consumers were being misled by some 'quality' claims on foods. As a result of that research, the Committee took the view that some detailed guidance in this area could be of benefit to consumers, manufacturers and retailers.

In presenting our recommendations for terms like fresh, pure, and natural we are of course concerned with use of the English language, as it is understood in the United Kingdom. We would hope that these provide useful guidance which will be of benefit to manufacturers, retailers and consumers alike. But it is not our intention to establish an uneven playing field for manufacturers in the UK and we urge the Food Standards Agency and industry trade associations to use our work in pursuing similar agreement at European level.

In publishing this report, I would like to thank the committee sub-group which did much of the groundwork in drawing up this guidance which I consider to be clear and thorough – Neville Craddock chaired the sub group, and Tom Miller, Catherine Humphries and Roger Manley were members. Thanks are also due to the committee Secretariat, in particular Karen Pratt who supported the sub-group and assisted with the preparation of the final report.



PROFESSOR SIR COLIN CAMPBELL
Chairman

June 2001

FOOD ADVISORY COMMITTEE REVIEW OF LABELLING CLAIMS

Guidance on the Use of Terms such as Fresh, Natural, Pure etc.

Background

1. In October 1998 the Food Advisory Committee (FAC) considered the need for improved guidance on the use of the term 'fresh' following a number of consumer studies and press reports that consumers were being misled by this and similar terms. It considered whether further action on use of the terms like fresh, natural and pure would be justified. Three options to improve the situation were considered: amend legislation, develop a code of practice or develop sectoral guidance.

2. At the time, the FAC was not convinced that there was an urgent problem in this area but wanted to re-consider the issue once research on consumers' views on labelling had been carried out. The fieldwork for this research subsequently suggested that as many as 75 per cent of consumers find terms like 'fresh', 'natural' and 'pure' misleading.

- Over two-fifths (43%) thought '**fresh**' referred to the age of the food. Over a fifth (22%) thought that 'fresh' food should not be treated, processed, tinned, etc. More than one in ten (12%) said that to be 'fresh', it should not have been frozen. One in ten thought that 'fresh' food should be produced or picked that day.
- Just under half (47%) expected '**natural**' food to contain no additives (including no preservatives, colourings or artificial, man-made ingredients). Just under a fifth (18%) mentioned that 'natural' food would have 'nothing added'/'no added ingredients', while 12% said it should be 'unadulterated', 'in its natural state' or 'not tampered with'.
- Over a third (35%) expected '**pure**' food to have nothing added or no extras, nothing mixed with the product/or nothing artificial; 32% expected 'pure' food to have no additives/or no 'e-numbers'.

3. Further consumer research has indicated that broadly similar views are held across socio-economic groups, although lower income groups are more likely to find labels confusing. The broad conclusions were that

labelling rules need to be more closely attuned to consumers' needs, and that there should be firmer controls on some claims. Other claims and marketing terms such as 'traditional' and 'home-made' were criticised as misleading and needing better control through voluntary guidance.

4. In the light of these findings, the FAC established a small sub-group to examine the current use of the following terms and to advise whether further controls on their use should be recommended:

- Fresh
- Natural
- Pure
- Traditional
- Original
- Authentic
- Home-made/Farmhouse

Introduction

5. Consumers need certain basic information to enable them to make informed choices about the food they wish to purchase, judged against a number of individual, personal criteria. They want information to be clear, accurate and easy to understand. For some, an accurate product name or picture will suffice; others will want to know in detail about the types and quality of ingredients used and/or the method of production.

6. Existing legislation already provides considerable protection. However, in order to enable sound and informed choices to be made and to ensure that effective, enforceable legislation remains in place, it is essential that the regulatory controls should be regularly and critically examined in the light of developments in the supply chain and changes in consumer expectations. As long ago as 1966, in its Report on Claims and Misleading Descriptions¹, the Food Standards Committee (FSC) recognised that technology used in food and agricultural production was advancing rapidly and would inevitably result in variations in the production and presentation of particular products. They considered it reasonable for traditional names to be used for innovations if there was little material difference between new and old, or if the new had replaced the old in common acceptance.

¹ Food Standards Committee Report on Claims and Misleading Descriptions: FSC/REP/50 HMSO 1966.

7. The variety and origins of all types of foods available continue to grow rapidly. The consumer is presented with a vast diversity of foods ranging from the most 'exotic' convenience ready-meals, through more traditional products to basic raw ingredients. Expansion of food production across the world and developments in the storage and distribution of food mean that many basic, as well as exotic, foods are now available for much longer periods throughout the year. Increased travel opportunities and the parallel availability of foods based on foreign cuisine have broadened consumer tastes and their willingness to experiment with unfamiliar foods. New processes such as aseptic and 'modified atmosphere' packaging, or new packaging materials, have enabled conventional products to be presented in novel ways, frequently with considerably extended lives but without the attendant deterioration of quality previously experienced.

8. Consumer expectations change in the light of experience and knowledge in this ever-changing environment. The English language is progressively evolving, possibly at a faster pace than ever. In particular, the uses of some descriptive terms have changed considerably over the years and there is a clear need to ensure that marketing terms, like any other claims, are used in an understandable and truthful manner that is not likely to mislead the average consumer. Even today, there remains a danger of debasement of accepted terms for specific articles of food and the possibility of the consumer being misled by the addition of ambiguous or meaningless expressions to the names and descriptions of foods. There is a constant tendency for words to lose their precise meanings and to become blurred or indefinite. It is therefore incumbent upon the food industry, when devising labels for their products, that they take into account the broad framework of food law and work within its spirit as well as its strict letter.

9. Some of these terms may have a precise meaning in certain situations but this meaning can vary between specific instances and may not generally be understood by ordinary consumers. Research indicates consumer dissatisfaction with, and distrust of, a wide range of descriptive terms that are not defined in law but that may have different meanings depending on the food and the circumstances. Many consumers perceive their use as being solely for the purpose of making food appealing or attractive. In this category, priorities identified by consumers included the use of ambiguous marketing terms like 'fresh'. Nevertheless, we believe it would be difficult to separate, by means of legislation, the legitimate use of adjectives and adverbs, properly used on food labels, from the uses that are potentially misleading.

10. Voluntary labelling helps to extend consumer choice, addressing such issues as quality, value for money and ethical concerns. But controls are necessary, sufficient to deter bad practice, such as the misuse of claims.

11. Studies of consumers' views on food labelling show a significant proportion of those who have eaten out have found food descriptions misleading or lacking in information. When eating out, people are more likely to focus on information that enhances their eating experience. Information about portion sizes, basic ingredients and the freshness of food ranked higher in terms of interest and took precedence over information about genetically modified ingredients, food allergens, and food additives.

12. Guidance on the use of many of these subjective terms has been offered previously and has, to a greater or lesser extent, generally been followed. However, in the light of the changing circumstances outlined above, it may be appropriate to review and possibly to modify previous advice. In doing so, it is important to make the point that, whilst we have looked at the use of these terms in their English language context, there is nevertheless a case for consideration of similar "quality" terms at a European level. Indeed there is a strong argument for this in order to provide a level playing field for consumers, manufacturers and retailers across Europe.

13. The FSC examined the use of the terms "fresh", "natural", "pure", and "home-made" in 1966 and again in 1980 – adding "real", "genuine" and "traditional" at that time². On both occasions, they did not find it necessary to make recommendations for additional statutory provisions because of the variety of different ways in which the words can legitimately be used preferring, instead, to recommend the development of appropriate Codes of Practice.

14. With the exception of FAC Guidelines on the use of the term "Natural"³, no such codes have been formulated.

Discussion

15. General controls on misleading or false descriptions or claims are provided by the provisions of the Food Safety Act 1990, the Trade Descriptions Act 1968 and the Food Labelling Regulations 1996⁴. There are no specific statutory controls on the terms that are the subject of this Report.

- The Food Safety Act 1990 prohibits the sale of any food which is not of the nature, substance or quality demanded by the purchaser. It also makes it an offence to describe, present or advertise food in a way that is false or likely to mislead the consumer.

² Food Standards Committee Second Report on Claims and Misleading Descriptions, FSC/REP/71, HMSO 1980.

³ Use of the Term "Natural" in Food Labelling and Advertising: Food Advisory Committee: June 1993.

⁴ The Food Labelling Regulations 1996; SI 1996/1499.

- Under the Trade Descriptions Act 1968, it is an offence for a trader to 'apply a false trade description to any goods'. This provision includes specific information on quantity, size and composition, how they were made and by whom, when and where, amongst others.

16. Labelling legislation requires that the name of a food must be sufficiently precise to allow it to be distinguished from similar foods and, if necessary, include an indication of its physical condition and any treatments that it has undergone, where omission of this information could mislead the consumer. Article 2 of Directive 2000/13/EC⁵ requires that the labelling and advertising of a food must not be such as could mislead the purchaser to a material degree, particularly:

- as to the characteristics of the foodstuff and, in particular, as to its nature, identity, properties, composition, quantity, durability, origin or provenance, method of manufacture or production,
- by attributing to the foodstuff effects or properties which it does not possess,
- by suggesting the foodstuff possesses special characteristics when in fact all similar foodstuffs possess such characteristics.

This prohibition also extends to the 'presentation' of foodstuffs, which is defined to include the way in which they are arranged and the setting in which they are displayed for sale.

17. Although the controls outlined above extend to advertisements, there are a number of additional restraints on advertisements contained in codes of practice adopted by the advertising industry and imposed on food suppliers.

18. The precise scope of the 'provenance' requirement is unclear since the term 'provenance' is not defined in food law. In common use, it is 'the fact of coming from some particular source or quarter'; i.e. the 'derivation' of the product, its extraction, origin or descent. It is debatable whether this concept could also be extended to encompass the 'naturalness', 'freshness' or 'authenticity' of a product.

19. Foods that are not prepacked, or have been prepacked for direct sale are exempt from most labelling requirements, although any claims made about them would be covered by the same legislation as for their pre-packed equivalents. We have discussed the issues surrounding the

⁵ Directive 2000/13 of the European Parliament and of the Council of 20th March 2000, on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs.

provision of information for foods sold loose, and those sold in catering outlets, in detail in our parallel Review of Food Labelling. Concerns have been expressed that the absence of equivalent details about the composition of retail products sold loose (e.g. delicatessen sales) may place such products at an unfair competitive advantage against their prepacked counterparts. It has been suggested that consumers already believe that the lack of clear information about the presence of 'modern' ingredients, additives etc. indicates that such components are indeed not present. This misperception may be further reinforced by the surroundings in which the products are presented for sale, their clear visibility and the absence of packaging. There is thus an implication that these products are in some way more 'natural', 'pure' or even 'fresh' than their prepacked counterparts. In many instances, this is not the case; the products can be, and frequently are, identical.

20. Claims for the types of attributes covered in this Report are applied voluntarily by the businesses concerned. We consider, and **recommend** accordingly, that any controls on the use of such terms as may be proposed must, therefore, be applied and enforced equally to all foods, regardless of whether the food is prepacked or not, and regardless of the type of outlet from which it is sold.

21. Decreasing numbers of consumers have direct, personal experience of food or agricultural production or the legislative controls that underpin it. Despite, or perhaps because of this, interest in and concern over the impact of farming and food production and distribution methods on our health, on livestock and the environment is increasing. This, in turn, is leading to demands for more information and controls on the systems used in food production and the products themselves. Many consumers believe that post-harvest pesticides and wax coatings should be considered in the same way as additives used as ingredients of manufactured foods and apply the same rationale to the use of substances used in animal feed to colour the yolks of eggs or the flesh of farmed fish. Many are concerned that the use of antibiotics in animal feed or growth hormones in cattle may have adverse implications for public health. Not surprisingly, consumers have begun to question whether many current agricultural and industry practices do indeed accord with their perceptions of expressions such as 'natural', 'fresh' and 'traditional', amongst others.

22. The concerns over the use of the terms reviewed in this Report are being expressed in parallel with demands for more specific on-label information relating to agricultural rearing methods, pesticide use etc. However, when properly used in accordance with their official approval, the majority of pesticides do not leave detectable residues in food and even if present in or on the crop when harvested, may be further reduced during subsequent processing and refining of food ingredients. Similarly, the

residues of most veterinary medicines will be completely broken down and, when the statutory withdrawal period is observed, any residues will be depleted to a very low level before the food is marketed. Care must be taken to avoid the misconception that, somehow, 'natural foods' are healthy whereas those obtained from conventional agriculture and subjected to a degree of industrial processing are not.

23. We do not believe that the legal use of pesticides and veterinary medicines, including the application of the appropriate withdrawal periods and compliance with statutory residue limits, should disqualify a product from the concepts or descriptions of naturalness, freshness or purity providing these terms are used in the correct context and are not exaggerated or abused. The practicalities of doing otherwise would be insurmountable. Apart from the intensive rearing of poultry and apiculture, where all animals or bees receive the same medication, the history of each animal is individual. Separate treatment of each animal in respect of its naturalness or purity would therefore require the meat and milk of each animal to be identified, marketed and labelled individually. Whilst traceability of origin is becoming possible for unprocessed meat sold as such (through Farm Assurance schemes and the EU Beef Labelling Scheme⁶), it remains very difficult, if not impossible, to preserve separate identification when the produce of several animals or farms is brought together and mixed, particularly during food processing.

24. A recent Food Standards Agency (FSA) Labelling Policy⁷ paper considered possible options for the additional control of potentially misleading expressions like fresh, traditional etc. Possible options considered included legislation, national Codes of Practice or industry sector Guidelines. The term 'natural' is already defined in EC legislation when it is applied to flavourings⁸, the marketing of tuna and bonito⁹ and Natural Mineral Waters¹⁰. "Fresh" is controlled in a specific sense for the marketing of eggs¹¹ but, otherwise, none of the other potentially misleading terms is regulated. Introducing more general statutory definitions for 'natural' and other terms would provide the highest degree of consistency in their use, and reduce the likelihood of consumers being misled.

⁶ EU Commission Regulation (EC) 1825/2000 laying down detailed rules for the application of Regulation (EC) 1760/2000 of the European Parliament and of the Council as regards the labelling of Beef and Beef Products.

⁷ Food Labelling Review Paper FSA 00/04/07 (September 2000)

⁸ Council Directive 88/388/EEC (as amended by Commission Directive 91/71/EEC) on the approximation of the laws of member states relating to flavourings for use in foodstuffs and to source materials for their production (OJ L184, 15.7.88 p61 and OJ L142 15.2.91 p25).

⁹ Council Regulation EEC 1536/92 laying down Common Marketing Standards for Preserved Tuna and Bonito.

¹⁰ Council Directive 80/777/EEC on the exploitation and marketing of Natural Mineral Waters (OJ L229, 30.8.80) as amended by Directive 96/70.

¹¹ Council Regulation (EEC) No 2771/75 of 29.1.75 on the common organisation of the market in eggs, as amended.

However, it was recognised in the Policy Paper that a specific legal basis for the use of these terms would be very difficult to establish. Amendment of the UK legislation is possible but would have to be agreed at European and international level if specific requirements were to be applied to all home and imported produce. This would be extremely difficult and would not happen quickly.

25. Previous Guidelines produced by the FAC on the use of the term 'natural' and similar terms¹² are considered by Industry and Enforcement Authorities to be useful and, generally, to have been effective. Similar guidance could be developed for other terms to the same effect. The sandwich industry and LACOTS have developed guidance on specific uses of the term 'fresh' in response to difficulties that have come to their attention¹³. This ad hoc activity could be considered a sufficient response and no further action recommended. However, close examination of the guidance shows it would need further development if it were to become universally applicable. The FSA concluded that the most appropriate mechanism would be to encourage industry to adopt clear, transparent criteria for use of potentially misleading terms.

26. General labelling principles are applicable to the use of all these terms. As with all other aspects of claims:

- foods should be sold without deceit and should be so labelled and advertised as to enable a prospective purchaser to make a fair and informed choice, based on clear and informative labelling;
- a food must be able to fulfil the claim being made for it and adequate information must be available to show that the claim is justified;
- where a claim is potentially ambiguous or imprecise, the likely understanding of an average consumer should prevail;
- controls should protect both consumers and honest traders;
- controls should allow fair comparison and competition between products, sectors and traders;
- if consumer and trader interests conflict, the interests of consumers must take precedence.

¹² See Ref 3 supra.

¹³ LACOTS Chief Officers Circulars LAC 21 97 2, 17th October 1997.

27. Enforcement can be a problem in this subjective area if the legislation is not clear and also because of the need to prove guilt beyond all reasonable doubt. This has deterred prosecutions in border-line cases and has undoubtedly contributed to a progressive erosion of standards.

28. There can be no question that information or material that is likely, materially, to mislead or confuse consumers should be prohibited. Labelling legislation, as far as possible, must cater for the interests of significant sectoral interests but must not, conversely, prevent the dissemination of useful information simply because a minority of individual consumers are not able, for whatever reason, to put it into the correct context. In addition to strictly factual information given on labels and in advertisements, manufacturers, retailers and caterers legitimately make claims about particular attributes of their product. Such claims are one of the ways in which they attempt to draw consumers' attention to certain aspects of their product or to its superiority over that of their competitors, and can play an important part in influencing consumer choice.

29. Labelling legislation requires that the name of a food must be sufficiently precise to allow it to be distinguished from similar foods and, if necessary, include an indication of its physical condition and any treatments that it has undergone, where omission of this information could mislead the consumer. In view of the greatly increased and often generic criticism of modern food and agricultural practices by some sections of society, it is perhaps understandable that industry should apply the corollary, namely to indicate wherever possible that given foods have not received such treatments.

30. In applying the law, however, labellers have a tendency to be economical with the truth. They are looking for short, punchy product descriptions to describe industrially produced food in terms familiar to the consumer, but with a tendency to gloss over the ingredients and processes of the food manufacturing industry. The distinction between capitalising on the advances of modern technology to produce quality products at a competitive price and those produced more in line with domestic culinary practices then becomes blurred. This can be further exacerbated by the misuse of descriptive terms such as traditional and natural to imply parallels with home cooking, using home produced ingredients or at least those that can readily be bought to prepare the product at home.

31. When it comes to describing a product, the law is at pains to prevent false and misleading descriptions. However, food is sold not only by words but also by pictures. They are a primary means of communication between seller and buyer and, unless a standard of honesty and understanding is maintained, the consumer is likely to be misled and the position of the honest trader will be prejudiced. When a product is presented for sale,

visual impact will, first and foremost, attract customers to particular products on a supermarket shelf. A mouth-watering illustration will override any perceptions of quality to be gained from detailed, written descriptions. The truth is that we eat with our eyes and when the food itself is not visible, we use the next best thing, the product illustration.

32. Pictures can be more powerful and evocative than words. Visual impressions are particularly effective in TV advertising. Care must therefore be taken to ensure that background illustrations and pictorial material cannot mislead the consumer as to the type, quality or origin of the product. For example, country scenes may lead the consumer to believe that animal products have been obtained from extensively reared, free-range animals. Kitchen scenes may lead a consumer to believe a product is hand-made or, at least produced in a small-scale operation. It is therefore impossible to consider the descriptive terms such as natural, farmhouse, country style, home-made, etc without also considering the need for parallel advice on the content of illustrations accompanying products and their advertising, and the implications that such illustrations may convey. There is a clear case to be made that the concept of "the labelling and presentation of the food, taken as a whole" should be applied when assessing whether a particular product label is likely to be considered misleading. Where a consumer might be misled by pictorial representations, any potential ambiguity must be clarified by equally clear and prominent labelling, and we **recommend** accordingly.

Conclusions

33. The Committee therefore draws the following conclusions-

- We consider the basic requirements of the Food Safety Act 1990, the Trade Descriptions Act 1968 and the Food Labelling Regulations 1996, together with general rules on false and misleading advertising, to be satisfactory in principle to ensure that consumers are not misled in this area of claims.
- However, we believe these rules are not being strictly observed, or enforced, but have already mentioned the legal difficulties of dealing with labelling issues. These conditions have led to the abuse of certain basic terms in some cases.
- We would therefore draw the attention of Industry and Enforcement Authorities to the current legal requirements and highlight what are believed by many to be current abuses of these terms.

- Because of the immense and increasing number of processes and treatments, and because individual foods and ingredients may go through a number of processes at different stages of manufacture, we consider that it would be very difficult to move away from the present non-specific requirements of the legislation. Additionally, agreement at EC level of adequate, legally enforceable definitions of each food process or treatment is likely to prove impossible.
- Pictures on labels and in advertisements can also exert powerful influences on a prospective purchaser and, in some product sectors, may have a greater significance than names and other descriptive material. We **recommend** that pictorial representations should be subject to the same scrutiny and control as the words used to portray similar images and concepts.
- There is clear room for improvement in the use of the terms reviewed in this report. There is no doubt that certain uses have become far-removed from their conventional meanings and have the potential to mislead consumers, even after making due allowance for the progressive evolution of the English language. It is important that suppliers should scrutinise and eliminate any potentially ambiguous or imprecise use of these terms. The use of 'style' or 'type' to qualify these subjective terms is not considered helpful and generally only serves to confuse the ambiguity further.
- Any use must, of course, be capable of technical substantiation. However, where there is any doubt over the likely interpretation of the phrase or description being used, we **recommend** that the most likely interpretation of a typical consumer should prevail.
- Notwithstanding the various potential meanings of the terms in the different contexts in which they are used, it should always be clear in each case what characteristic of a product is being described. To facilitate understanding and assessment, a possible approach to clarifying the use of specified marketing terms, and their analogues, would be to establish basic criteria accompanied by a non-exhaustive, negative list of inappropriate uses.
- We have discussed the meaning and current use of these terms and **suggested** acceptable uses in Appendices 1-8.

Appendix 1: Recommended Criteria for the Use of the Term 'Fresh' in Food Labelling and Advertising

Background

1. There is no general statutory definition of the term "fresh". However, there are specific controls:

- EU regimes for Fruit and Vegetables¹⁴ are covered by two regulations, one of which covers 'fresh products' and the other 'processed products'. Although the term "fresh" is not defined, it is taken by implication to cover products that have not been frozen, dried, canned or preserved in vinegar and other liquids or sugar.
- EC Egg Marketing Regulations¹⁵ control the use of the term "Extra Fresh" in a number of ways specific to the sector.
- EC Poultry Marketing Regulations¹⁶ specify that products may only be presented as "fresh", "frozen" or "quick-frozen". "Fresh" poultry is defined as not previously stiffened by a cooling process and maintained at a temperature between -2° and +4C°.
- for milk and dairy products, there is no statutory definition but "fresh milk" is understood by the trade and probably the consumer to mean a product with a limited shelf-life of 10-12 days and which requires chilled storage.

1. The Food Standards Committee (FSC) examined the use of the term "fresh" in 1966¹⁷ and 1980¹⁸ but made no recommendations for additional statutory provisions, concluding that "...it would be difficult, or even impossible, to devise a definition suitable for legislative purposes" because of the variety of different ways in which the word is used. The Committee concluded that it was often difficult for consumers to know in which context the term was being used and that it would only be possible to

¹⁴ Commission Regulation No 58 (OJ No 56 of 7.7.62) laying down common quality standards for certain products listed in Annex 1 to Regulation 23 on the progressive establishment of the common organisation of the market in fruit and vegetables.

¹⁵ See Ref 11 supra.

¹⁶ EU Poultry Marketing Standards Regulation 1538/91.

¹⁷ See Ref 1 supra.

¹⁸ See Ref 2 supra.

control its use by defining in detail the products for which it could be used and under what conditions. The Committee thought that the term should be used more sparingly and that conditions limiting its use could be included in a code of practice. However, no action was taken to formulate such a code.

Dictionary Definitions

3. Grammatically, the term 'fresh' can legitimately be used in one of three ways:

- adjectivally, to describe the finished product;
- adjectivally, to describe individual ingredients used in the preparation of the product;
- as an adverb, to describe a short period of time that has elapsed since the preparation, harvesting etc. of a product or its ingredients or since the action described, i.e. as a corruption of 'freshly'.

4. 'Fresh' in relation to food has been defined as

- not old, stale or spoiled: recently harvested or made and showing no sign of staleness or decay; as in fresh bread;
- recently made or obtained, produced, harvested, gathered or prepared for market;
- not chemically preserved, processed, dried, soured or matured: for example by canning, smoking or freezing; as in fresh vegetables, meat or fish;
- not saline or salted; as in fresh water, or fresh meat as distinct from pickled or salted;
- recently taken from a spring or well; as in fresh water;
- not tainted, wilted or faded;
- not affected by the passage of time; in good condition;
- in a raw state; as in fresh fruit, vegetables, meat, fish, eggs;
- natural, pure and wholesome, especially in taste and smell;

- invigorating, refreshing, as in taste sensations;
- excitingly different from what has been done previously; a fresh concept;
- recently arrived, as in 'X, fresh from Y'.

Discussion

5. The term 'fresh' thus has a wider range of application in current English usage, beyond the concept of recently harvested or made, with current uses including an indication that the product retains the characteristics of recently harvested or fresh products e.g. the concept of 'fresh fruit and vegetables'.

6. 'Fresh' is frequently used in a number of phrases, and has been for at least 40 years. It is often used with other adjectives such as 'oven fresh', 'garden fresh', 'ocean fresh', 'kitchen fresh' etc in expressions that may have an emotive appeal but have no real meaning. The historic connotation of the word 'fresh' had some relation to the time elapsed since the food was produced or harvested, but since modern distribution and storage methods can significantly retard the effects of this lapse of time, it becomes increasingly difficult to decide when it is being used legitimately. In the case of fruit and vegetables, for example, the term is now used generically to indicate, not that they have been recently harvested, but that they have not been processed. We believe this represents a legitimate development of the English language over a period of time.

7. Although the use of chill temperatures and other controlled atmospheres for the delayed ripening and/or extended storage of fruit and vegetables are regarded by some as 'processing', and do indeed produce minor changes as compared to normal ripening, these differences are not sufficiently obvious to the average consumer. On the contrary, the average consumer benefits to a greater extent by having access throughout the year to 'fresh' fruit and vegetables, possessing significantly less loss of vitamins than would otherwise be the case. This is particularly useful in view of medical advice that we should be consuming more fresh fruit and vegetables. Produce that has been washed and trimmed could also be described as processed, so the absence of 'processing' as the criterion for the use of the term 'fresh' would be unnecessarily restrictive.

Conclusions

8. We agree with the general conclusions of our predecessors that the terms 'fresh' and 'freshly' should be used with considerably more discretion but that it would be impossible to define the term for legislative purposes. It is only possible to control their use by defining specifically and in detail the conditions of their legitimate use and, equally, those circumstances when they should not be used. We have attempted to do this below. The key criterion is that the meaning of the words 'fresh' or 'freshly', appropriately used, must be clear whenever they are used, whether alone or qualified by other terms.

(i) **Jams/Preserves:** The term is used to describe 'fresh fruit' jams/preserves made with fruit which has not been chemically or heat preserved, frozen or dried but which has been transported immediately from harvesting, in chilled containers, and used within a short period, while still 'fresh'. The product has a different, stronger fruit flavour compared to other preserves with the same fruit content and it is believed that the use of this term indicates that difference to the consumer.

(ii) **Fresh meat:** Virtually all **carcase meat** is chilled to near or just below 0°C following slaughter, principally as a hygiene measure. As indicated above, the term fresh is traditionally used to differentiate raw meat from that which has been (chemically) preserved. We believe it would serve no purpose to disqualify chilled meat from use of the term 'fresh'. On the contrary, it would potentially elevate non-chilled meat in the minds of the consumer to a status that was not justified in view of its likely lower hygiene quality.

(iii) **Frozen/thawed meat:** European Hygiene¹⁹ legislation treats meat that has been frozen as 'fresh' meat. Until recently, UK Labelling legislation required a statement to be displayed near any meat that had been frozen but was being sold thawed, to the effect that it had 'been previously frozen, do not refreeze'. Although the specific statutory requirement has been removed, official Guidance Notes to the Food Labelling Regulations²⁰ consider that the omission of such information from, or not accompanying the name of the meat or offal could mislead the consumer. We believe that such meat would not be considered by the average consumer to be 'fresh' and recommend accordingly.

¹⁹ Directive 91/497 amending and consolidating Directive 64/433 on Health Problems affecting intra-Community trade in Fresh Meat.

²⁰ The Food Labelling Regulations 1996: Guidance Notes (Rev 1) Jan 1997; MAFF.

(iv) **Fresh fish:** Fish differs from meat in that it will deteriorate rapidly if it is not frozen and stored at -20°C within a very short time after catching. It is therefore in the consumers' best interests in receiving a safe, quality product that fish other than that for consumption immediately after catching should be quickly and correctly frozen as soon as possible after catching/harvesting. Fish currently described as 'Fresh' fish may be transported frozen or near-frozen and is commonly displayed for sale on or with ice. The key point is that it retains its original, fresh state and clearly has to be handled with great care in order to preserve this. We understand that very little 'fresh' fish has not been frozen at some point in the chain and believe that the current use of 'fresh', to reflect the condition as opposed to the time elapsed after catching, is unlikely to mislead the average consumer. However, we are aware of views to the contrary and would wish to see further consumer research into the extent of potential confusion over this specific aspect before recommending further action. As indicated above, previous UK Food Labelling Regulations required meat, but not fish, that had been frozen and subsequently thawed to disclose the fact. If consumer research indicates a significant problem with the description of fish, then we believe a notice to indicate its frozen/thawed nature should be required, thus permitting the widely used concept of "fresh" fish and the smaller market of "freshly-caught" fish to co-exist but be clearly distinguished.

(v) **Fruit juice:** 'Freshly-squeezed' fruit juice is commonly used to identify juice from fruit squeezed by the packer/seller, as opposed to the use of fruit juice concentrate. Where the intention is to indicate that the product is not made from fruit juice concentrate, we recommend that 'juice from freshly squeezed fruit' should be used in place of 'freshly squeezed juice'. In the case of juices prepared by dilution of concentrates, the law already requires the product to be prominently marked or labelled with the expression "made with concentrated X juice" in proximity to the name of the product²¹. We **recommend** that the term "fresh" should not be used, directly or by implication, on such products.

(vi) **Frozen foods:** 'Fresh' is widely used in the frozen food industry to indicate that the food was fresh (recently made or harvested) when it underwent the freezing operation or to indicate that the food was made with fresh ingredients. This position is widely adopted in the frozen food sector, although there is no formal guidance on its use. We **recommend** that the term "fresh" should only be used in relation to frozen foods if its use is clear from the context e.g. 'frozen from fresh', "made with fresh ingredients" or similar expressions.

²¹ The Fruit Juices and Nectars Regulations 1997; SI 1997/927 (as amended).

(vii) **Fresh ingredients:** Similar principles apply to the adjectival use of the term to describe individual ingredients used in other processed food categories, for example to distinguish between the use of fresh and dried herbs. We **recommend** that 'made from fresh ingredients' should be used where the intended meaning is that no processed ingredients were used.

(viii) **Fresh pasta:** We welcome the LACOTS clarification in respect of long-life, "fresh" pasta that fresh pasta is traditionally considered as a short shelf life product and it is unlikely that the term 'fresh' for long shelf life products would equate with the average consumers' perception of the term.²²

(ix) **Fresh bread:** We also welcome the LACOTS Opinion on the Labelling and Description of Bread²³. This makes it clear that terms such as 'freshly baked', 'baked in store' and 'oven fresh' may mislead consumers into believing that they are being offered products that have been freshly produced on site from the basic raw materials when, in fact, they have been prepared, partially processed and either packed in an inert atmosphere or frozen off-site before being finished at in-store bakeries. We **recommend** that such instances should therefore be considered, on a case-by-case basis, as potential infringements of the general provisions outlined above.

(x) **'Traditional Farmfresh Turkey':** This was the first UK product to receive protected status under EU food law as a Certificate of Specific Character. It is produced and marketed by the Traditional Farmfresh Turkey Association under the 'Golden Promise' brand. It is a product produced by artisan farmers and sold, nationally by small family butchers²⁴. The legal recognition of this description also has implications for the wider use of the term "traditional" reviewed below (Appendix 4).

(xi) **Fresh taste:** Manufacturers use the terms 'fresh' or 'refreshing' to indicate a particularly refreshing taste such as is obtained with citrus fruit or peppermint. We **recommend** that the expression 'fresh taste' should not be used where it could mislead the consumer, for example by implying 'freshly squeezed', unless it is clear from the context that the reference is to the "tanginess" of the taste or if the appropriate criteria for "freshness" are met.

²² LACOTS circular LAC 14 96 7: 'Fresh pasta'.

²³ LACOTS circular LAC 9 98 9 'Labelling and Description of Bread'.

²⁴ Regulation EEC 2082/92 on the Certificates of Special Character for Agricultural Products and Foodstuffs. (Approval of 'Traditional Farmfresh Turkey' under Commission Regulation 1482/2000).

(xii) **Chilled foods:** The increased sales of chilled convenience foods has led to the use of the term 'fresh' to indicate a moderate life under refrigerated conditions and to highlight the difference from conventional long-life products. Examples include chilled soups and sauces with the taste and texture characteristics of less heavily processed, canned or bottled items; pasteurised cream (as distinct from UHT), as sold or when used on 'fresh cream' flour confectionery; pasteurised milk; and fruit juice produced directly from the fruit, perhaps pasteurised. In all cases the products have a short shelf life, even under chilled storage, and it is claimed that the term is applied to indicate this fact to the consumer. We are of the opinion that there are more precise ways to indicate the necessary storage conditions and **recommend** that the term 'fresh' should not be used in this manner unless the product complies with the appropriate criteria for its use, as set out in this guidance.

9. In addition to the specific examples and recommendations above, we further recommend that, as a general principle, the term 'fresh' should not be used except where it can help consumers to differentiate between otherwise similar products, for example:

- fresh fruit salad that is made only from fresh fruit;
- fresh dairy products, held under chilled conditions at point of sale, with limited shelf-life, even where these have been subjected to a minimal, mild heat treatment, such as conventional pasteurisation, for safety purposes;
- where it is defined in law, for example 'extra fresh' eggs and 'fresh' poultry.

10. More specific terms like 'freshly prepared', 'freshly baked', 'freshly picked' have the potential for abuse and are more liable to a subjective challenge to their validity under the general provisions prohibiting misleading descriptions. "Freshly" relates to a short period of time that has elapsed since an action such as harvest, preparation or manufacture and the control of its use should be considered more stringently than the broader application of the term "fresh" outlined above. Expressions such as "freshly baked", "freshly picked" or "freshly prepared" can have no other connotation than the immediacy of the action. Whilst packaging, storage and other supply chain parameters will control the "freshness" of the product, this quality should be described in terms that do not imply that only a short period after harvesting or preparation has elapsed if this is not the case. Clarification of the use of "freshly" in a variety of specific applications might be possible, but would require detailed consultation with all stakeholders. For example, guidance for "freshly-X'ed" along the

following lines might be possible, but would need to take into account the anticipated shelf-life of the product, the nature of the point of sale and the potential 24-hour operation of the food supply chain. The following examples illustrate the complexity of attempting to define absolute rules:

- 'freshly-cooked': in a catering operation, it would be reasonable to expect the meal to be cooked from its ingredients at the time of a specific order.
- 'freshly-prepared', 'freshly-baked' etc: The expression will have differing implications relative to the anticipated life of typical products within a given sector and the reasonable expectations of the average consumer. The term 'freshly' is defined²⁵ as synonymous with 'recently', in turn meaning 'belonging to a period of time *comparatively* near to the present' – i.e. in this case, estimated by comparison with or relative to the period elapsed since preparation etc., relative to other similar products that may be available. However, we do not believe that an average consumer will understand or accept this argument. The comparative aspect, although linguistically correct, is likely to result in descriptions that are considered to be misleading when applied to products with an extended shelf-life. For such products, we therefore **recommend** that the expression should only be used to describe a period "within a maximum of 24 hours of manufacture/preparation etc".
- However, for products with a very short life of 1–2 days, or less, (e.g. chilled sandwiches, some breads, certain salads sold loose, etc), the situation is more complex. The correct use of the term will be appropriate only for a proportion of the product life, and should be limited to a few hours, at most, dependent upon the individual product and the circumstances of its sale. Any attempt to define a fixed period of time elapsed since manufacture is therefore likely to need to be specific to, and differ between, sectors. Furthermore, generic definitions such as "the same day", which may be appropriate for businesses operating on a daily basis, are not appropriate for relatively short life products produced and distributed on a 24-hour basis.
- We do not believe, therefore, that it is possible at this stage to define a single period, precisely, without full consultation of all stakeholders concerned in order to establish their expectations and the practicalities involved. We **recommend** that this should be done.

²⁵ The New Shorter Oxford Dictionary, 1993.

Appendix 2: Recommended Criteria for the Use of the Term 'Natural' in Food Labelling and Advertising

Background

1. The Food Standards Committee (FSC) recommended in 1980²⁶ that 'the word 'natural' should only be used, without qualification, in two senses. Firstly, it was considered acceptable to describe products such as colours and flavours belonging to a class of which many members were synthetic, thus indicating that the product was produced from biological material; secondly, to mean a raw, unmixed, unadulterated and unprocessed product with no additions.

2. Working criteria were set out in a MAFF-sponsored LACOTS survey report on 'The Use of the Word Natural and its Derivatives' issued in 1987²⁷. These, and the FAC 'Guidelines on the Use of the Word Natural and Similar Terms'²⁸, appear to have worked well and can form the basis of future advice.

3. The definition of 'natural' set down in European standards for tuna and bonito²⁹ adds little to achieving clarity of the use of the term. The term is also covered in the legislation relating to natural mineral waters³⁰, as distinct from 'spring water' and other bottled waters, and in relation to flavourings.³¹ None of these specific definitions is of general application for all foods.

Dictionary definitions

4. There are numerous definitions in common usage in the English language, the use of which in relation to food is legitimate. 'Natural' in relation to food can be defined as:

- occurring in or produced by nature, not being artificial or created; not produced or changed artificially; consonant to the methods of nature;

²⁶ See Ref 2 supra.

²⁷ The Use of the Word 'Natural' and its Derivatives in the Labelling, Advertising and Presentation of Food; Report of a survey by LACOTS; HMSO, 22nd December 1987; ISBN 0 11 24284 X.

²⁸ See Ref 3 supra.

²⁹ Article 4 of Council Regulation EEC 1536/92 (issued 9/6/92), laying down common marketing standards for preserved tuna and bonito.

³⁰ See Ref 10 supra.

³¹ See Ref 8 supra.

- being something by nature; having a particular character by nature e.g. arising automatically from a sequence of actions without artificial or deliberate additions to influence the parameter described (natural colour, flavour, texture etc)
- of, relating to, or concerning nature;
- not altered, treated or disguised;
- involving or derived from living organisms;
- free from chemical treatments or additives.

Discussion

5. The term can clearly encompass a very wide range of concepts. It is therefore essential that any particular use must be clear and unambiguous to the consumer. The food industry generally regards 'natural' as a useful communicative term, both to assure existing customers that a product's integrity has been maintained and also to define the type of product for potential new purchasers

6. The term is particularly applied to certain dairy products to signify that the products are manufactured only from milk, using only the necessary, associated fermentation cultures and are free from other ingredients or additives, such as preservatives, flavourings, colours, i.e. they are a 'plain', unflavoured product, (e.g. 'natural' yoghurt³², 'natural' fromage frais and 'natural' cottage cheese). The term has been used for such products for many years without evident confusion. We accept this use, providing it is clear that the term is indicating that the flavour of the product is that derived solely from the ingredients essential to the manufacture of the product and that the flavour has not been adjusted by any other means. The ingredients must comply with the requirements in section 10.3 and 10.4 in the guidance set out below.

7. A particular difficulty has long existed in the use of so-called "nature-identical" flavourings and, in parallel, the statutory provisions restricting the use of descriptions or pictorial representations on food labels or advertisements that imply that a food has the flavour of a named or illustrated ingredient. These provisions require a named flavour of a food to be derived "wholly or mainly" from the named or illustrated ingredient (except in the case of "chocolate, where the chocolate flavour may be derived wholly or mainly from non-fat cocoa solids")³³. EC Flavourings

³² Dairy Industry Federation Code of Practice for the Composition and Labelling of Yogurt, Revised May 2000.

³³ The Food Labelling Regulations 1996, SI 1996/1499, Schedule 8, Part I.

legislation³⁴ requires flavouring manufacturers and suppliers to use the terms “natural”, “identical to natural” and “artificial” for commercial sales of their products. However, we are aware that consumers may not differentiate between the terms or concepts of “artificial” and “nature-identical” (or “identical to nature”) when used in relation to final foods. We **recommend** that both categories of flavourings (i.e. those not meeting the statutory definition of a “natural” flavouring) should be regarded as “artificial” for the purposes of food labelling and advertising controls. Pictorial representations of ingredients should not be used to imply that a food has the flavour of the illustrated ingredient if the flavour of the food is wholly or mainly derived from “artificial” or “identical to nature” flavourings. Descriptions should not be used to imply that a food has the flavour of a named ingredient if that flavour is wholly or mainly derived from “artificial” or “identical to nature” flavourings unless the word “flavour” follows the named ingredient. However, if such a position were to be adopted, it would be necessary for it to be an EC-wide interpretation for it to be enforceable on imported foods.

8. We do not object to the use of the term “natural” to describe a food in conjunction with some expression to indicate that a mild process has been applied to a natural product, in accordance with normal grammatical construction e.g. ‘pasteurised natural orange juice’. However, we recommend that the acceptable “mild” processes should be limited to those used to enhance the safety of the product, e.g. pasteurisation, and should also be the minimum required to achieve this effect (i.e. would exclude UHT treatment).

9. We are aware of significant numbers of products sold through ‘health food’ shops, claiming varying degrees of naturalness for the remedies offered. We have not examined them in detail but are of the opinion from previous work that these products should be subject to the same controls as normal foods unless they are subject to a medicinal product licence.

Conclusions

10. We consider that, in *broad terms*, ‘natural’ relates to the origin of a product and the process(es) to which it may have been subjected. However, *in the context of food*, ‘natural’ means essentially that the product comprises of natural ingredients, e.g. ingredients produced by nature, not the work of man or interfered with by man. It is misleading to use the term to describe foods or ingredients that employ chemicals to change their composition or comprise the products of new technologies, including additives and flavourings that are the product of the chemical industry or extracted by chemical processes. In the following guidance, the

³⁴ See Ref 8 supra.

restriction to 'foods of a traditional nature' excludes from the concept of 'naturalness' novel foods and foods derived from novel processes, which although they may technically be products derived from natural sources do not accord with the public perception of 'natural'. However, there are further, fundamental questions surrounding the issue of genetic modification and the use of refined and other derivatives of GMOs in foods. Accepting that primary ingredients derived from GMOs are not to be considered 'natural', it has then to be established how far down successive steps of subsequent refining and use of such derivatives does this status go. It is beyond the scope of this paper to answer such questions but they must, nevertheless, be answered if a logical and consistent position is ultimately to be established. We are aware of ongoing discussions at EU level to resolve these questions and **recommend** that a full and rapid evaluation of these aspects should be carried out as a matter of urgency.

The following **guidance** is based on, but not identical to, that issued in 1993:

10.1 The term 'natural' without qualification should be used only in the following cases:

(a) To describe single foods, of a traditional nature, to which nothing has been added and which have been subjected only to such processing as to render them suitable for human consumption:

- Smoking (without chemicals), traditional cooking processes such as baking, roasting or blanching and traditional methods of dehydration are examples of processes that are acceptable, as are physical sieving and washing with water.
- Fermentation is itself a natural process but subsequent processes may disqualify the final product from the description 'natural' unless appropriately qualified.
- Processes such as freezing, concentration, pasteurisation and sterilisation, whilst clearly playing a significant role in both making food safe and preserving it, do not accord with current consumer expectations of 'natural' foods. However, the process to which a 'natural' product has been subjected can be described using these terms (e.g. pasteurised natural lemon juice).
- For single ingredient foods such as cheese, yoghurt and butter, acceptable processing is that which is strictly necessary to produce the final product.

- Bleaching, oxidation, smoking (with chemicals), tenderising (with chemicals), hydrogenation and similar processes fall outside the scope.
- The restriction to 'foods of a traditional nature' excludes from the concept of 'naturalness' novel foods and foods derived from novel processes.

(b) To describe food ingredients obtained from recognised food sources and which meet the criteria in (a).

(c) To describe permitted food additives obtained from recognised food sources by appropriate physical processing (including distillation and solvent extraction) or traditional food preparation processes.

(d) To describe flavourings when in conformity with the UK Flavourings in Food Regulations³⁵ and EC Directives 91/71/EEC and 91/72/EEC.

(e) To describe preserved tuna and bonito when in conformity with EC Regulation 1536/92³⁶.

10.2 Compound foods should not themselves be described directly or by implication as 'natural', but it is acceptable to describe such foods as 'made from natural ingredients' if all the ingredients meet the criteria in 10.1 (b), (c) and (d), as appropriate.

10.3 A food that does not meet the criteria in 10.1 (a) or 10.2 should not be claimed to have a 'natural' taste, flavour or colour.

10.4 'Natural' meaning no more than plain or unflavoured should not be used unless the food meets the criteria in 10.1 (a) or 10.2, or is in accordance with the Dairy Industry Federation Code of Practice referred to in paragraph 6, above.

10.5 'Natural', or its derivatives, should not be included in brand or fancy names, nor in coined phrases, in such a way as to imply that a food that does not meet the criteria in 10.1 (a) or 10.2 is natural or made from natural ingredients.

10.6 Where the word 'natural' forms part of a company name, no undue prominence should be given to the word on any individual product unless that product meets the requirements of these criteria.

³⁵ The Flavourings in Food Regulations 1992; SI 1992/1971 (as amended).

³⁶ See Ref 9 *supra*.

10.7 Claims such as 'natural goodness', 'naturally better', or 'nature's way' are largely meaningless and should not be used.

10.8 A recent ruling by the European Court of Justice in relation to the use of the expression "naturally pure" related to a specific strawberry jam and is not considered to have general application to the use of the term 'naturally' – see Appendix 3, para 7.

11. The *principles* set out above also apply to the use of other words or expressions, such as 'real', 'genuine', 'pure' etc with separate and distinctive meanings of their own, when used in place of 'natural' in such a way as to imply similar benefits. We have offered guidance on such terms and their synonyms in the following Appendices.

12. Other claims (which might be termed 'negative claims') that do not use the term 'natural' or its derivatives directly, but the effect of which is to imply 'naturalness' to the consumer, are potentially misleading and confusing. We **recommend** that the following, at least, should not be used:

- a claim that a food is 'free from x', if all foods in the same class or category are free from 'x';
- statements or implications which give *undue* emphasis to the fact that a product is 'free from certain non-natural additives or categories of additives', when the product contains other non-natural additives;
- a claim that a food is 'free from one category of additive', when an ingredient or an additive of another category having broadly similar effect, has been used.

These criteria do not affect 'negative claims' which do not imply 'naturalness' to the consumer, (such as 'free from x', where 'x' is a particular additive), and where the statement may provide consumers with accurate and beneficial information.

Appendix 3: Recommended Criteria for the Use of the Term 'Pure' in Food Labelling and Advertising

Background

1. In 1980 the Food Standards Committee (FSC) repeated its earlier (1966) recommendation³⁷ that 'pure' should be confined to products that contained no additive of any kind and 'should not be used, even if qualified, to describe any product which contains additions', quoting 'pure lard with antioxidant' as self-contradictory. The FSC further proposed that the term should be restricted to 'food that is *substantially* free from contaminants, anabolic agents, chemical fertilisers and pesticide residues'. Such residues or contaminants are not 'additions' to the product as such but may be the inevitable consequence of the production of its raw materials. Prescribed maximum residue limits, withdrawal periods etc. apply to all foods, whether or not described as 'pure' in respect of their ingredient content. The recent European Court of Justice ruling (Case C-465/98, see paragraph 7, below) may serve to further clarify these aspects: Directive 2000/13/EC "does not preclude the use of the description 'naturally pure' for a strawberry jam which contains the gelling agent pectin and traces or residues of lead, cadmium and pesticides."

2. The term 'pure' appears mostly to be used on single ingredient foods (e.g. to indicate a single, named variety of rice). It is also used to highlight the quality of ingredients of a food, e.g. 'pure butter shortbread' indicates that the butter has not been blended with other fats.

Dictionary Definitions

3. 'Pure' in relation to food is defined, variously, as follows:

- having a homogeneous or uniform composition;
- not mixed;
- free from adulterants, impurities or foreign elements;
- containing nothing inappropriate or extraneous;
- genuine, real.

³⁷ See Ref 2 supra.

From a grammatical viewpoint, it is clear that certain elements of these definitions may be considered to be mutually contradictory.

Discussion

4. The FSC previously considered that it would be inappropriate for the term 'pure' to be used on foods that had undergone cooking, freezing, chilling or drying, but did not justify their reasons. In view of the significant use of chilled, deep-chilled and frozen distribution for foodstuffs of all types of food on a global basis, we do not believe it is feasible to continue with this distinction. The key consideration is whether the method of handling, storage or distribution has itself resulted in changes to the properties of the food, over and above those that would otherwise have occurred. As indicated earlier in this Report, low temperature distribution results in less deterioration, loss of vitamins etc than traditional, ambient systems and it can therefore be argued that the food is 'purer' than would otherwise be the case.

5. The validity of the use of the term 'pure' should be determined by the properties of the food itself, not its storage conditions, and we therefore view the earlier FSC comments as outdated.

6. The FSC view that the term should be restricted to food that is substantially free from contaminants is open to varying interpretation. It would be more appropriate to limit the use of the term to products legally produced in accordance with accepted practices. Although some consumers consider home-grown and organic produce to be 'purer' than foods produced commercially, we believe that the use of the term 'organic' – as defined in the legislation – is sufficient in the latter case. To suggest that 'purity' should be restricted solely to this method of production would be an inaccurate and unnecessarily restrictive interpretation.

7. The European Court of Justice has recently ruled that the expression "naturally pure" is legitimate, and unlikely to mislead consumers, when used on a strawberry jam, made with added pectin, and containing low levels of lead, cadmium and two particular pesticides³⁸. In summary, the Court took the view that the presence of pectin was readily apparent to the average consumer by virtue of its declaration in the ingredients list; the presence of low levels of naturally-occurring contaminants was unavoidable; and the levels of the pesticide residues were "particularly low" as compared with the levels permitted by Community legislation.

³⁸ ECJ Case C-465/98 *Handel und Gewerbe Köln eV v Adolf Darbo AG*.

8. We are aware that some companies are using the principles of the original FAC Guidelines on Natural as a basis for the use of the term 'pure', as those Guidelines themselves recommended. We support this interpretation and have used the same underlying principles as the framework for our advice below.

Conclusions

9. We recommend that the term 'pure' should generally only be used in the following circumstances:

9.1 To describe a **single ingredient food**:

- to which nothing has been added;
- that is free from adventitious contamination by similar foods, (i.e. tolerances for contamination such as for basmati rice, durum pasta, GM thresholds, etc. should *not* apply);
- that has been extracted from naturally associated material, to which nothing has been added, provided it is made clear that it has undergone such a process, i.e. 'pure refined white sugar' or 'pure refined honey'.

9.2 **Compound foods** should not generally be described, directly or by implication, as 'pure'. It is, however, acceptable to describe such foods as 'made with pure ingredients', if all the ingredients meet the criteria above, or if a claimed, named ingredient meets these criteria. There are three exceptions to this general rule:

Fruit juice: 'pure' is used only for non-sweetened fruit juice but may be used for concentrated juice reconstituted with water. Legislation permits the addition of sugar or citric acid to correct sweetness and the use of ascorbic acid as an antioxidant during processing of fruit juices³⁹. The term 'pure' is therefore used to identify to consumers that no such additions have been made.

Jams and marmalades: the term 'pure fruit' is used to indicate that the fruit has not been preserved by sulphur dioxide, prior to use in the jam/marmalade. We consider this usage acceptable.

'Naturally pure' can be used to describe strawberry jam which contains added pectin and traces of residues of lead, cadmium and pesticides⁴⁰.

³⁹ See Ref 21 supra.

⁴⁰ See Ref 37 supra.

9.3 'Pure' should not be included in any brand or fancy names, nor in coined or meaningless phrases, in such a way as to imply that a food that does not meet the criteria above is pure or made from pure ingredients.

9.4 'Pure' meaning no more than plain or unflavoured should not be used except where the food in question meets the criteria above.

Appendix 4: Recommended Criteria for the Use of the Term 'Traditional' in Food Labelling and Advertising

Background

1. In 1980 the Food Standards Committee (FSC) recognised that the term 'traditional' is difficult to define and expressed the view that its use in descriptions such as 'traditional recipe' did not require control, other than by general provisions of food law⁴¹.

Dictionary Definitions

1. 'Traditional' can be defined as relating to the following:
- of, or pertaining to, or derived from tradition;
 - communicated from ancestors to descendants, generally by word only;
 - traditional customs; old-fashioned; pertaining to time-honoured orthodox doctrines;
 - a custom or usage, long observed;
 - handed down practices that are valued by a particular culture;

Discussion

3. The term is widely used to describe a product or method of preparation when newer alternatives are available on the market. The following current uses of the term have been brought to our attention but, despite their apparent acceptance by Enforcement Authorities, we are not persuaded that all of these are in accordance with the perceptions of the average consumer:

- **Jams:** To differentiate between standard jams and those with a reduced sugar content.
- **Mincemeat:** In the case of mincemeat, to signify standard mincemeat, containing only the historic requirements to qualify for the description, i.e. no added nuts, cherries or

⁴¹ See Ref 2 supra.

wines/spirits. Manufacturers have needed to show compliance to guidelines regarding the history of the recipes. However, and interestingly, we understand Trading Standards Officers have accepted recent recipe changes to accommodate BSE-related concerns, e.g. the use of vegetable fat instead of beef suet.

- **Recipe dishes and Ready Meals:** To indicate that no 'exotic' ingredients (wine, peppers etc.) have been added to traditional recipe dishes. In these cases, the description 'traditional' is not automatically disqualified by the use of certain additives, providing these have been readily available and used directly, or indirectly, for an extended period in a non-industrial kitchen. Examples would include gravy mix, or stock cubes, containing caramel and modified starch, custard powder and baking powder.
- **Soft drinks:** To indicate a cloudy, juice-based soft drink as distinct from the modern use of, for example, lemon extract, including oil from the peel.
- **Bread:** To indicate the use of an older, less mechanised, process in bread manufacture.
- **'Traditional Farm Fresh Turkey':** This was the first UK product to receive protected status under EU food law as a Certificate of Specific Character. It is produced and marketed by the Traditional Farm Fresh Turkey Association under the 'Golden Promise' brand. It is a product produced by artisan farmers and sold, nationally by small family butchers⁴². The legal recognition of this description also has implications for the wider use of the term "fresh" reviewed above (Appendix 1).
- **'Traditional' Cider and Perry:** The National Association of Cider Makers' Code of Practice⁴³ specifies the addition of sugar and carbon dioxide, the raw materials to be used and the range of permitted alcoholic content.

⁴² See Ref 24 supra.

⁴³ Code of Practice for Cider and Perry Making, National Association of Cider Makers, 8th Edition, January 1998.

Conclusions

4. 'Traditional' is clearly linked to the passing of time. We take the view that the 'tradition' should have existed for a considerable period of time. The term should therefore demonstrably be used to describe a recipe, fundamental formulation or processing method for a product that has existed for a significant period. The ingredients and process used should have been available, substantially unchanged, for that same period. However, the period during which this has occurred is a matter for debate and may, to some extent, be product-specific. It has been suggested that the period should be of the order of 2 generations/50 years but, before expressing an opinion on this, we would **recommend** a wider consultation of all stakeholders. This consultation exercise should also include criteria for the use of "vintage", on foods other than alcoholic beverages, as this may equally have a time relationship. Pending the results of this consultation, we **recommend** that greater discretion should be exercised by manufacturers, and greater attention paid by Enforcement Authorities, in the use of this term.

5. The term 'traditional' implies more than 'original' or 'plain'. It is not a synonym for 'original' and we consider it misleading to use the term, without qualification, simply to distinguish an 'original' recipe from subsequent variants. Manufacturers and retailers must therefore pay particular attention to the use of ingredients, particularly additives, and to the use of processes that have not been used in food manufacture for the substantial period of time indicated above. They must ensure that the term does not imply a composition or production method that would not be regarded as 'traditional' by the average consumer and should consider whether the term 'original recipe' or similar expression may be more appropriate. In accordance with our general principles, there must be evidence to substantiate the use of the word for the particular product, vis-à-vis the foregoing, time-related guidance. We **recommend** accordingly.

6. We agree with the FSC (1980) that the term is difficult to define and that its use currently does not require specific statutory control, other than by the general provisions of food law. We consider that the general provisions of the Food Safety Act 1990 and the Trade Descriptions Act 1968 provide the necessary framework controls but we would encourage a fuller recognition of these by industry and their application by Enforcement Authorities. However, in the absence of specific definitions, consistency of enforcement approach is necessary.

Appendix 5: Recommended Criteria for the Use of the Term 'Original' in Food Labelling and Advertising

Background

1. Generally, 'original' conveys a stronger meaning than 'traditional' but without the implication, necessarily, that a product has remained unchanged for a substantial period of time. It is used to indicate that a product was the first of its type to be placed on the market, where the original form or flavour has remained essentially unchanged through the passage of time and hence to differentiate it from new additions to a range.

Dictionary Definitions

2. 'Original' may be defined as follows:

- preceding all others of its class; existing first or first-made;
- not derived from something else;
- relating to a first form from which other, alternative versions have been made or derived;
- it may also be used to convey a sense of novelty, as in 'original idea'.

Discussion and conclusions

3. The term is commonly used to convey 'plain' or 'unflavoured' where other variants are offered (e.g. original flavour crisps) or to indicate the first variant in a series of products. 'Original', in the examples above, should not be used unless the product can be shown to meet the criteria in this Appendix.

4. The term 'original' should only be used to describe a food that is made to a formulation, the origin of which can be traced, and that has effectively remained unchanged over time. It can similarly be used to describe a process, provided it is the process first used in the making of the food, and which has remained unchanged over time. We **recommend** accordingly.

5. Product and ingredient specifications may change marginally, for example their geographic origin, but to be termed 'original', we **recommend** that a product should not have changed to any material degree and that it should remain available as the 'standard' product when new variants are introduced.

Appendix 6: Recommended Criteria for the Use of the Term 'Authentic' in Food Labelling and Advertising

Background

1. 'Authentic' may convey a stronger sense than 'traditional', where a product has remained unchanged through the passage of time. It may also indicate that a product actually originates from the area implied by its name, e.g. authentic Cornish pasties, when the generic description of the product has passed into wider use.

Dictionary Definitions

2. 'Authentic' may be defined as follows:

- having a claimed and verifiable origin or authorship;
- not counterfeit or copied;
- conforming to fact and therefore worthy of trust;
- genuine, real, original;
- resting on unquestionable authority or evidence.

3. It is also appropriate to consider the fuller meaning of 'real' and 'genuine' in the above sense:

- being no less than what is stated; worthy of the name; not artificial, counterfeit or spurious;
- what something purports to be tallies with fact; having actual physical existence;
- not fictitious or imaginary; having verified existence; being or reflecting the essential or genuine character of something;
- prepared or made in a traditional or authentic way, rather than being mass-produced or artificial;
- used to emphasise the accuracy or appropriateness of a particular thing;

Discussion and conclusions

'Authentic' is used:

- to indicate the true origin of a product where the description may be in wider, generic use;
- to convey to consumers that a product has particular characteristics that have not been adjusted for the British palate, e.g. authentic Indian-recipe curry dishes;
- to indicate single types of rice, where this is important because they have particular characteristics. These characteristics may be due to the grain variety (e.g. Arborio, Basmati, Carnoroli) and also to geographic origin (e.g. American Long grain, Carmague red rice).

5. 'Authentic' (and to a lesser extent pure, traditional and original) is also relevant to discussions on Basmati rice. These are examining whether traditional, pure line selections should be labelled differently from hybrid/crossed varieties e.g. as Traditional Basmati or Hybrid Basmati. The above terms are currently used in a technical sense to differentiate these types.

6. The current, widespread use of terms such as 'real', 'genuine' etc in relation to individual food ingredients (e.g. 'made with real fruit') is largely unjustified and tautologous, even if their use is in an exaggerated advertising sense. It is an attempt to imply that the food or its ingredients somehow possess a vague but substantially higher compositional quality than others in its class. However, if the food or ingredient is an analogue or substitute, or a flavouring, then existing legislation requires that fact to be clearly stated. We therefore consider that this use of these terms is unnecessary and should be discontinued, and **recommend** accordingly.

7. We **recommend** that these and related terms should in future be used with much greater discretion. We believe it is difficult to draw absolute distinctions between terms such as authentic, real and genuine, and consider the following criteria to be broadly applicable to all such terms.

8. It is our view that the term 'authentic' and analogous terms should only be used in the following circumstances:

- to emphasise the geographic origin of a product, for example where it might be confused with other products of the same name that do not originate from that location, e.g. 'authentic Devon toffees';

- to describe the recipe used to make a product, the origin of which is specified, e.g. 'authentic Indian recipe curry';
- to emphasise the purity of single varieties of ingredients where such purity is essential to deliver specific characteristics.

9. We therefore **recommend** that 'authentic' and analogous terms should not otherwise be used, without qualification, to describe either a food or an ingredient.

Appendix 7: Recommended Criteria for the Use of the Term 'Home-Made' in Food Labelling and Advertising

Background

1. The Food Standards Committee (FSC) considered the term 'home-made' in 1966⁴⁴ and again in 1980⁴⁵. They considered that consumers would understand it to mean food prepared in a domestic kitchen rather than in a factory or manufacturer's kitchen and recommended that its use should be confined to this meaning. The Independent Television Companies' Association guidelines at the time⁴⁶ stated that 'false impressions of the locale or conditions of manufacture should not be given, e.g. factory-made goods should not be shown being in small kitchens, farmhouses etc'.
2. The term has also, for many years, been used to describe foods and meals available in many types of catering outlets.

Dictionary Definitions

3. 'Home-made' is a term defined very simply and specifically in dictionaries:
 - made or prepared in the home; of domestic manufacture;
 - made at home using traditional methods rather than by a manufacturer;
 - made by oneself;
 - crudely or simply made.

Discussion and conclusions

4. We agree with the earlier FSC opinions that the public would understand the term to mean food prepared in a domestic kitchen rather than in a factory or a manufacturer's kitchen. We therefore **recommend** that the use of the term, if unqualified, should accordingly be restricted to the broad criteria above.

⁴⁴ See Ref 1 supra.

⁴⁵ See Ref 2 supra.

5. Further, in order to avoid visual misrepresentation, we agree with the earlier advice from the Independent Television Commission⁴⁶ that factory-made foods should not be shown being made in small kitchens, farmhouses etc., and **recommend** accordingly.

6. In order to accommodate the production of meals and dishes on commercial catering premises, we **recommend** that the term should be restricted to the preparation of the recipe on the premises, from primary ingredients, in a way that reflects a typical domestic situation. This should not be achieved simply by the assembly of wholly pre-prepared elements, or simple reconstitution from dry base mixes, but must involve some degree of fundamental culinary preparation. However, as in domestic preparation, it would be legitimate for caterers to use partly-prepared ingredients; typical examples could include the use of pre-prepared raw pastry, bakery bread in desserts or stock cubes in sauces.

⁴⁶ The ITC Association Notes of Guidance.

Appendix 8: Recommended Criteria for the Use of the Term 'Farmhouse' in Food Labelling and Advertising

Background

1. In its 1980 Report⁴⁷, the Food Standards Committee (FSC) deprecated the use of terms such as 'country', 'farm' etc unless they could be substantiated as true in a sense generally understood by the public. They considered the use of such terms, or similar visual depictions of typical rural scenes, to attract a desired rural cachet to be misleading if the foods to which they were applied had not been produced on what the general public would understand to be a farm.

Dictionary definitions

2. 'Farm House' or 'Farmhouse' can only be defined as a house on a farm, and more specifically as the main dwelling of the farmer himself.

Discussion and conclusions

3. Notwithstanding the changes to farming practices that have occurred since the previous Committee Report, we agree with the FSC's earlier conclusions.

4. We are, however, aware that the baking industry has long used the term 'farmhouse' as an established description of a style of bread with a single, longitudinal split and sometimes flour dressed. We accept this use of the term.

5. The term is also used to denote other styles of food preparation, for example, coarse cut vegetables and the cutting and flouring of the pastry lid of a pie, analogous to that of 'Farmhouse' loaves. Where the term is used in connection with foodstuffs, we would expect it to refer to that produced on a farm or to the same quality and style as that likely to be produced on a farm. Given the vagueness of the term when used alone, we **recommend** that its meaning should be made clear either within the context of sale (e.g. in a cottage restaurant) or by associated wording (e.g. 'farmhouse style' (with picture of product) or 'farmhouse style, chunky vegetables'). Simply to describe an ingredient as 'farmhouse' e.g. 'x with farmhouse vegetables' is meaningless and we **recommend** that the term should not be used in this context.

6. The similar expression 'country style' does not appear to have any specific meaning. We **recommend** that this phrase should not be used to describe any food or food ingredient.

⁴⁷ See Ref 2 supra.

Appendix 9: FAC Terms of Reference, Membership and Secretariat

The Food Advisory Committee (FAC) is an independent non-statutory body appointed by the board of the Food Standards Agency and its current terms of reference are:

“To advise the Board of the Food Standards Agency on any food safety and standards issues and to assist with the development of the Agency’s strategy and future work programme as the board may require.”

Current Food Advisory Committee Membership

Professor Sir Colin Campbell (Chairman) DL LLB FRSA CIM
Vice-Chancellor, University of Nottingham

Mr Roger Manley (Deputy Chairman) OBE FITSA
Formerly County Fair Trading and Advice Officer, Cheshire County Council

Mrs Matti Alderson BA FRSA FCAMF
Former Director-General, Advertising Standards Authority

Mr Neville Craddock MA (Cantab) FIFST
Group Regulatory and Environmental Affairs Manager, Nestlé UK Ltd

Mrs Dorothy Craig MBE JP BSc
Chairman, Food and Agriculture Working Party of Consumers in Europe Group

Dr Maureen Edmondson BSc PhD FIFST
Formerly International Scientific Affairs, Mars Incorporated

Professor Catherine Geissler BDS MS PhD
Professor of Nutrition, Department of Nutrition and Dietetics, King’s College, University of London

Dr Catherine Humphries BSc PhD FRSC CChem FIFST
Chief Scientific Adviser, Co-operative Group (CWS) Limited

Dr Chris Llewelyn BA(Hons) MA PhD
Head of Research and Consumer Policy, Welsh Consumer Council

