

## Written evidence submitted by the UK Industry Working Group on Probiotics (REULB84)

- The UK Industry Working Group on Probiotics<sup>1</sup> welcomes new legislation to review retained EU law, enabling the UK to develop more bespoke regulation following its departure from the EU.
- ***In addition, we wish to highlight that significant benefits can also be achieved by changing UK interpretation of particular EU rules and regulations.***

### 1. **Probiotics**

- 1.1. One 'easy win' would be to remove restrictions on use of the term 'Probiotic' on food labels and in marketing, for foods containing probiotic microorganisms.
- 1.2. These restrictions derive from non-binding guidance issued in 2007 by the European Commission.
- 1.3. A simple change to UK guidance<sup>2</sup> to allow the term as a descriptor for probiotic ingredients, subject to existing criteria, does not require regulatory change and can be actioned immediately.
- 1.4. This would be consistent with the TIGRR Report, which cites probiotics as an example of restrictive legislation that might be reviewed.
- 1.5. Indeed, some EU Member States now allow the term 'Probiotic' on food labels to support consumers and businesses, and in Italy the term was never restricted.

### 2. **Consumers**

- 2.1. UK consumers are familiar with the term 'Probiotic' and are confused by alternative terms such as 'live cultures' or by the names of bacterial species and strains<sup>3</sup>.
- 2.2. Consumers want to see the term on products: among respondents who expressed a firm view, 86.7% thought the term should be allowed on products, including 97% of 65+ year-olds.
- 2.3. 'Probiotic' is consumers' preferred search term; a direct-to-consumer food supplement website has reported 550 monthly searches for 'Probiotics' against 5 for 'Live bacteria', while a leading retailer reported 11500 searches for 'Probiotic' in Q1 2022 against 40 for 'Live bacteria'.
- 2.4. If products are not labelled in a way that consumers recognise, it implies that the products do not actually contain probiotic microorganisms.
- 2.5. Enabling consumers to easily identify probiotic products will protect against misleading communication and help to avoid confusion.

### 3. **Probiotics Market**

- 3.1. The current situation also disadvantages UK businesses.
- 3.2. Data from Euromonitor international for 2015 onwards, when product labels and signposting in retail stores became fully aligned with UK guidance, demonstrate the impact in the UK.
  - 3.2.1. Comparing Italy and the USA, where there is little or no restriction on use of 'Probiotic', per capita consumption of probiotic supplements is 7.5 and 5.5 times higher than in the UK, respectively, from 2015 to 2022 (Figure 1).

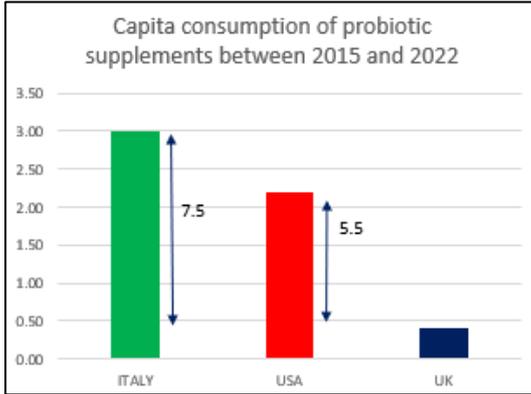
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<sup>1</sup> See Annex for details

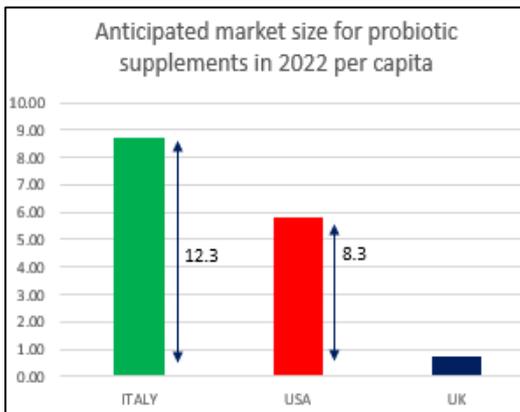
<sup>2</sup> Under the remit of the Department of Health and Social Care: Nutrition and health claims: guidance to compliance with Regulation (EC) 1924/2006 (Updated 10 November 2021) <https://www.gov.uk/government/publications/nutrition-and-health-claims-guidance-to-compliance-with-regulation-ec-1924-2006-on-nutrition-and-health-claims-made-on-foods/nutrition-and-health-claims-guidance-to-compliance-with-regulation-ec-19242006>

<sup>3</sup> Quantitative consumer research by 3Gem conducted in June 2021, with 2,000 unscreened adult consumers

3.2.2. Anticipated per capita market size growth for probiotic supplements in 2022 is 12.3 times higher in Italy, and 8.3 times higher in the USA compared with the UK (Figure 2).



**Figure 1: Capita consumption of probiotic supplements between 2015 and 2022**



**Figure 2. Anticipated market size for probiotic supplements in 2022 per capita**

## **ANNEX**

The UK Industry Working Group on Probiotics was established to provide a forum for discussion and alignment to an agreed approach that would allow use of the term 'Probiotic' on foods and in marketing. Such foods include, but are not limited to, food supplements, dairy products, beverages, sports products and products for infants and young children.

The Working Group is composed of representatives from interested trade organisations and up to a maximum of two company members of each participating trade organisation, in cases where those company members could provide expertise and data to support the discussions.

The interested trade organisations are:

- British Retail Consortium (BRC)
- British Soft Drinks Association (BSDA)
- British Specialist Nutrition Association (BSNA)
- Council for Responsible Nutrition UK (CRN UK)
- Dairy UK
- European Specialist Sports Nutrition Alliance (ESSNA)
- Food and Drink Federation (FDF)
- Health Food Manufacturers' Association (HFMA)
- Proprietary Association of Great Britain (PAGB)
- Provision Trade Federation (PTF)

Company members include leading probiotic companies in the yogurt, drink and food supplements sectors.