

IT'S INDEPENDENCE DAY!

As from today, water fluoridation must be prohibited in all Member States of the EC

20th January 2014

The last legal loophole through which the British and Irish governments have been able to wriggle in their continued imposition of fluoridated water supplies finally closed today. The addition of fluorosilicic acid to any food is now completely banned throughout the entire European Community.

Since the promoters of this controversial product refuse to accept that it is a medicine, they must recognise that food law applies instead (they are utterly wrong, of course, but let's play along with them for a moment or two and see where it takes us). If it really is still a food, just like the 'water for human consumption specified in the Drinking Water Directive (98/93/EC), then the EC rules on what ingredients may be added to any food product must apply. And today the final loophole for fluoridated drinking water finally slammed shut!

Legitimate fortification - or blatant adulteration?

In its contorted and unfathomable wisdom the EC has decreed that fluoride is a 'mineral', and can be added to foods in strictly regulated amounts. But only two chemical substances can be used to put this fluoride into foods - the fluorides of sodium and potassium.

These are specified in Article II of EC Regulation 1925/2006 on the addition of vitamins, minerals and some other substances to food. Neither of the two substances authorised for the purpose of adding fluoride to drinking water, fluorosilicic acid and its sodium salt, under the English and Irish fluoridation legislation are on that list.

The legal loophole.

But inevitably the EC left an opening that would have allowed the British or the Irish governments to get permission to continue fluoridation after the deadline expired, had they followed the proper procedures. Until 19th January 2014 - yesterday - Member States could continue to use other chemicals **provided** that they had applied for permission from the EC to do so, and had not received an adverse Opinion from the Commission on its continued use.

But inexplicably, neither government took up that offer. The European Commission asked its SCHER Expert Panel to investigate the safety of fluoridation, and this was approved for release in May 2011,[1]. But this was sixteen months after the deadline for submitting an application set in Article 17.1. (b) of Regulation 1925/2006 had expired, on 10th January 2010.

The EC has published details of all such applications that have been submitted to it for the continued use of unconventional chemicals in foods [2], and neither of these fluoridation chemicals is included. Both the British and Irish government Agencies responsible for food safety have reproduced the EC's official list of applications [3][4], so they can't claim they didn't know that they had missed the official deadline!

Was this just negligence on their part, or were they afraid that such an application would inevitably have failed the required strict scrutiny and been turned down, as some on the inside have suggested (off the record, of course!) Certainly the SCHER report was a total travesty - since fluoridated water really is a medicinal product, it was completely outside the SCHER remit, and this committee had no authority to assess the clinical efficacy or safety of a medicinal product.

Liability of water suppliers

Foods and medicines are classed as 'ingestible substances' - anything else is unwholesome and its sale for public consumption is prohibited. Since our Big Brother governments claim that fluoridated water is not a medicine but merely a food (drinking water, that has been 'fortified' by the mineral fluoride), then food law - ALL relevant food law - must apply. So any water contaminated by the illegal ingredient fluorosilicic is now a prohibited food product under Regulation 1925/2006.

So where does that leave the suppliers of fluoridated water? Far be it from me to answer that crucial question - I'm only a biologist! But water companies in the UK, and the Irish government itself in Ireland, urgently need to look very closely at their positions now, since their continued supply of this product may leave them open to very serious public or private legal action and liability. After all, if there can be no indemnity for a criminal act, then the British government's offer of indemnity against liabilities to water companies under the English law is meaningless.

The Big Picture - internal trade . . .

This development now has far wider commercial implications than may immediately be obvious. It is not just the supply of drinking water containing the illegal ingredient fluorosilicic acid that is prohibited within the EC. Any food product that contains it, or has been processed using it, must also be regarded as unacceptable under Regulation 178/2002 laying down the general principles and requirements of food law.[5]

The main obsession in the legislative objectives of the European Commission and Parliament is to remove barriers to trade within the Community.[6] So British (in practice, English) and Irish food manufacturers who use fluoridated tap-water to process or manufacture their products may now find themselves barred from sending their goods to other Member States, since the recipients may reject them on the grounds that they are not compliant with Regulation 1925/2006.

. . . and the global market in foods.

But it gets even worse! For these two rogue Member States of the EC are not the only States in which this banned chemical is added to water supplies. Australia, New Zealand, Israel, parts of the USA, and quite a few others also do it. And under the EC rules, it is now unacceptable to import into any part of the EC any food products produced in those States if they include an ingredient that contains a chemical that is not included on the officially approved list.

The solution - the only practical solution, really - is quite simple. We already get too much fluoride in our diets, we don't actually need yet more of this toxic chemical contaminating our foods. So just turn off the fluoride taps - the misguided proponents of fluoridation may protest - if so, let's see them in Court!

REFERENCES

1. Scientific Committee on Health and Environmental Risks (SCHER). Opinion on critical review of any new evidence on the hazard profile, health effects, and human exposure to fluoride and the fluoridating agents of drinking water - 16 May 2011. http://ec.europa.eu/health/scientific_committees/environmental_risks/docs/scher_o_139.pdf
2. European Community. Section F, List of the substances for which dossiers have been submitted as provided for in Article 17(1)(b) of Regulation (EC) No 1925/2006 OJ:L:2006:404:0026:0038. http://ec.europa.eu/food/food/labellingnutrition/vitamins/comm_reg_en.pdf
3. Food Standards Agency UK. Guidance to compliance version 1. April 2008 <http://www.food.gov.uk/multimedia/pdfs/ec19252006complianceguide.pdf>
4. Food Safety Authority of Ireland. Community Register on the addition of vitamins and minerals and of certain other substances to foods. www.fsai.ie/uploadedfiles/comm_reg_en.pdf See also FSAI (undated, but clearly before the January 2010 deadline) Requirements for the addition of vitamins and minerals. http://www.fsai.ie/legislation/food_legislation/food_fortification/requirements.html
5. Regulation (EC) No. 178/2002 of the European Parliament and of the Council of 28th January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety. OJ:L:2002:031:0001:0024 <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2002:031:0001:0024:EN:PDF>
6. See *Article 10 of 1925/2006, Free movement of goods*, which forbids any obstruction of trade in any food product that complies with the Regulation - and by implication therefore permits a Member State to ban trade within its boundaries of any good that does not comply. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:404:0026:0038:EN:PDF>