



EUROPEAN COMMISSION  
DIRECTORATE-GENERAL FOR AGRICULTURE AND RURAL DEVELOPMENT

Directorate B. Quality, Research & Innovation, Outreach  
The Director

Brussels,  
PP/nb/agri.ddg1.b.4(2020)7635260

[REDACTED]

Thank you for your e-mail of 29 October 2020 (Int. Ref. ARES(2020)6132570) asking for a series of clarifications with respect to certain yoghurt products intended for consumption by infants and whether they could be supplemented with vitamins and minerals and be certified as organic.

In compliance with Article 2(2)(a) and (f) of Regulation (EU) No 609/2013<sup>1</sup> on food intended for infants and young children, ‘infant’ means a child under the age of 12 months and ‘baby food’ means food intended to fulfil the particular requirements of infants in good health while they are being weaned, and of young children in good health as a supplement to their diet and/or for their progressive adaptation to ordinary food, excluding: (i) processed cereal-based food; and (ii) milk-based drinks and similar products intended for young children;”.

Hence, to address your first question: yoghurt intended for consumption by infants from age 6 to 12 months, and labelled as such, falls under the category of baby food.

With respect to the reference to Directive 2006/125/EC<sup>2</sup> on processed cereal-based foods and baby foods for infants and young children, indeed it has not yet been repealed by Regulation (EU) No 609/2013. Article 20(4) of that Regulation lays down that the Directive shall be repealed from date of application of delegated acts referred to in Article 11(1).

Therefore, in accordance with Annex II point 5 of Directive 2006/125/EC vitamin D shall not be added to baby food and with respect to Calcium the same Annex II point 6 set a maximum limit when added.

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<sup>1</sup> Regulation (EU) No 609/2013 of the European Parliament and of the Council of 12 June 2013 on food intended for infants and young children, food for special medical purposes, and total diet replacement for weight control and repealing Council Directive 92/52/EEC, Commission Directives 96/8/EC, 1999/21/EC, 2006/125/EC and 2006/141/EC, Directive 2009/39/EC of the European Parliament and of the Council and Commission Regulations (EC) No 41/2009 and (EC) No 953/2009 (OJ L 181, 29.6.2013, p.35)

<sup>2</sup> Commission Directive 2006/125/EC of 5 December 2006 on processed cereal-based foods and baby foods for infants and young children (OJ L 339, 6.12.2006, p. 16)

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Please note that Article 27(1)(f) of Commission Regulation (EC) No 889/2008<sup>3</sup> and point 2.2.2, Part IV of Annex II to Regulation (EU) 2018/848<sup>4</sup>, on processed food production rules provide for the following:

*“In the processing of food, the following products and substances may be used: (f) minerals (trace elements included), vitamins, amino acids and micronutrients provided that:*

*(i) Their use in food for normal consumption is ‘directly legally required’, in the meaning of being directly required by provisions of Union law or provisions of national law compatible with Union law, with the consequence that the food cannot be placed at all on the market as food for normal consumption if those minerals, vitamins, amino-acids or micronutrients are not added; or*

*(ii) as regards food placed on the market as having particular characteristics or effects in relation to health or nutrition or in relation to needs of specific groups of consumers:*

*- in products referred to in points (a) and (b) of Article 1(1) of Regulation (EU) No 609/2013 of the European Parliament and of the Council their use is authorised by that Regulation and acts adopted on the basis of Article 11(1) of that Regulation for the products concerned, or*

*- in products regulated by Commission Directive 2006/125/EC, their use is authorised by that Directive.”*

On the basis of the above your remaining questions are addressed as follows: vitamin D cannot be added to organic yoghurt that is labelled as baby food. The Directive 2006/125/EC is still in force. Organic yoghurt which is intended for consumption by infants from age 6 months to 12 months cannot be fortified with vitamin D, but only Calcium could be added when in compliance with Directive 2006/125/EC.

The present opinion is provided on the basis of the facts as set out in your e-mail of 29 October 2020 and expresses the view of the Commission services and does not commit the European Commission. In the event of a dispute involving Union law it is, under the Treaty on the Functioning of the European Union, ultimately for the European Court of Justice to provide a definitive interpretation of the applicable Union law.

Yours sincerely,



<sup>3</sup> Commission Regulation (EC) No 889/2008 of 5 September 2008 laying down detailed rules for the implementation of Council Regulation (EC) No 834/2007 on organic production and labelling of organic products with regard to organic production, labelling and control (OJ L 250, 18.9.2008, p. 1)

<sup>4</sup> [Regulation \(EU\) 2018/848 of the European Parliament and of the Council of 30 May 2018 on organic production and labelling of organic products and repealing Council Regulation \(EC\) No 834/2007 \( OJ L 150, 14.6.2018 p.1 \)](#)