EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR AGRICULTURE AND RURAL DEVELOPMENT

Directorate B – Sustainability
The Director

Brussels
[redacted]/agri.b.4(2025)6965828

Dear [redacted],

I would like to thank you for your email ([1]) of 20 May 2025 concerning the use of the term "bio" in trademarks for food supplements containing probiotics.

First of all, please note that you will find information in chapters 1 (question 1) and 4.5 (question 9) of our online Frequently Asked Questions (FAQ). These can be found on our webpage at: Organic rules – frequently asked questions

As you probably know, we have discussed probiotics extensively in recent meetings of Expert Group on Organic Production, and specific replies to some Member States questions are available in CIRCA BC.

In your email, you refer to two types of conventional product: 'Protectis Baby' (probiotic and vitamin product containing sunflower and rapeseed oils) and 'Protectis +Vitamin D' (probiotic and vitamin). You conclude that one clearly does not fall within the scope of Regulation (EU) 2018/848 on organic production and labelling of organic products ([2]) because it does not contain any agricultural ingredient, while the other contains some agricultural ingredients.

In both cases the trademark BIOGAIA uses the term 'BIO' which appears on the label as 'BIOGAIA', but the products are not labelled as organic. Moreover, you indicate that both display in their label '*a disclaimer stating that the prefix "bio" in the trademark does not indicate organic production*.' You therefore conclude that in both cases the product can be registered as food supplement as there is no obvious risk of misleading consumers.

Article 30(2) of Regulation (EU) 2018/848 is relevant and provides as follows:

'*2. For the products referred to in Article 2(1), the terms referred to in paragraph 1 of this Article shall not be used anywhere in the Union, in any language listed in Annex IV,*

([1]) ARES (2025)4082336
([2]) 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).

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for the labelling, advertising material or commercial documents of a product which does not comply with this Regulation.

Furthermore, no terms, including terms used in trademarks or company names, or practices shall be used in labelling or advertising if they are liable to mislead the consumer or user by suggesting that a product or its ingredients comply with this Regulation.'.

Considering that the food supplements at stake are labelled with an evident brand name 'BIOGAIA', the reference to the term 'BIO' may be misleading for consumers in spite of the disclaimer in the label.

Furthermore, Article 7(1) of Regulation (EU) 1169/2011 on the provision of food information to consumers ([3]) provides that information concerning a food made available to the final consumer by means of a label, other accompanying material, or any other means including modern technology tools or verbal communication *'shall not be misleading particularly: (a) as to the characteristics of the food and, in particular, as to its nature, identity, properties, (...) method of manufacture or production; (b) by attributing to the food effects or properties which it does not possess*; (…)'

Please note that Article 41 (3) of Regulation (EU) 2018/848 provides that "*Member States shall take any measures and provide for any necessary sanctions to prevent fraudulent use of the indications referred to in Chapter IV of this Regulation.".*

I hope that these elements help you assess and clarify the situation in order to ensure the correct implementation of the EU legislation. As you know, national authorities play a key role in ensuring EU provisions are implemented correctly. The services of the Commission of course support this by providing online information, organising committees and expert group meetings, and replying to your questions.

This opinion is provided on the basis of the facts set out in your e-mail of 20 May 2025 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 Court of Justice of the European Union to provide a definitive interpretation of the applicable Union law.

Yours sincerely,

[redacted]

Gijs SCHILTHUIS

Enclosure: ARES (2024) 1417698 and Ares (2024)7286961 redacted

([3]) Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004 (OJ L 304 22.11.2011, p. 18).