



Canadian Federation of Agriculture (CFA) Submission

Amending Certain Regulations Made Under the Food and
Drugs Act (Nutrition Symbols, Other Labelling Provisions,
Partially Hydrogenated Oils and Vitamin D)

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The Canadian Federation of Agriculture:

This submission represents the official position of the Canadian Federation of Agriculture (CFA), Canada's largest farmers' organization, through its members representing approximately 200,000 Canadian farmers and farm families from coast to coast. CFA was formed in 1935 to answer the need for a unified voice to speak on behalf of Canadian farmers. It continues today as a farmer-funded, national umbrella organization representing provincial general farm organizations and national commodity groups. The CFA's mission is to promote the interests of Canadian agriculture and agri-food producers, including farm families, through leadership at the national level and to ensure the continued development of a viable and vibrant agriculture and agri-food industry in Canada.

CFA works to coordinate the efforts of agricultural producer organizations throughout Canada for the purpose of forming and promoting national agricultural policies to ensure Canadian agriculture remains profitable, competitive, and has the stability needed to innovate and adapt to meet changing domestic and international conditions.

CFA's Perspective:

CFA strongly supports the core objective of the *Healthy Eating Strategy*, to help consumers make informed, healthier choices, as well as the broader mandate of Health Canada,

“to promote health and safety and to prevent injury to health, develops and promotes evidence-based, national food and healthy eating policies and standards to help ensure the safety and nutritional quality of food and enable Canadians to make informed decisions in relation to their health and safety.”¹

However, the proposed Front-of-Package (FOP) labelling regulations focus on three nutrients of public health concern and fails to reflect the best available scientific evidence. As a result, the proposed FOP labelling regulations have the potential to confuse Canadians when trying to make healthy eating decisions. In attempting to target the reduction of chronic, non-communicable diseases (NCD), this narrow focus on targeting three nutrients results in the complete exclusion of other health-related considerations that have significant bearing on the health of Canadians. The sole focus on saturated fats, sodium and sugar neither reflects the best available scientific evidence on the targeted nutrients, nor adequately considers the wider consequences to overall health, such as the overall nutrition of food products and how they fit within broader dietary patterns.

Our concerns are clearly demonstrated in the Regulatory Impact Analysis Statement (RIAS), which provides little evidence as to the efficacy of mandatory FOP labelling regimes, while failing to truly account for the costs associated with resultant changes in consumption habits. The lack of evidence pertaining to FOP labels results in

¹ Canada Gazette Part I. Regulations amending certain regulations made under the Food and Drugs Act (nutrition symbols, other labelling provisions, partially hydrogenated oils and vitamin D). 2018-02-10 Vol.152, No.6.

a cost-benefit analysis grounded in a number of broad assumptions regarding the likelihood of positive health outcomes for Canadians, while simultaneously articulating that any costs or impacts beyond industry's initial implementation are "non-quantifiable."

By selectively focusing on three nutrients of concern without considering broader dietary patterns, this approach holds the potential to drive costly reformulations and change consumption habits without ultimately resulting in diets that actually improve overall health outcomes. The focus on three nutrients while excluding information on other required nutrients or broader dietary considerations demonstrates a lack of balance in the consideration of the available scientific evidence. For these reasons, CFA strongly advocates that Health Canada reconsider the proposed regulations and undergo a fulsome, transparent review of all available scientific evidence, including a truly comprehensive cost-benefit analysis that extends beyond the immediate costs to industry for implementation.

1. Concurrent Consultation on Proposed Front-of-Package Labelling

While CFA is aware of a concurrent consultation focused on the selection of symbols for the proposed FOP labelling regime, it has decided not to participate following a review of the online questionnaire. From CFA's perspective, the consultation questionnaire is structured in a fashion that does not allow respondents to comment on underlying principles or provide unbiased input on all available options. By having to first select a preferred option, the consultation directs participants to support Health Canada's proposed labelling approach. For this reason, CFA has elected to provide its feedback through this submission to Canada Gazette I.

2. Dietary Guidance Informed by all Available Evidence

As laid out in Health Canada's 2015 Evidence Review on Dietary Guidance, the majority of Canadians continue to consume inadequate amounts of several key nutrients², while taking in a significant portion of their total calories from foods that are higher in fat, sugar or salt.³ Based on the 2015 review, which "examined the relationships between food intake and nutrition-related outcomes of public health concern in Canada", five outcomes of concern were identified: cardiovascular disease, type 2 diabetes, certain types of cancer, osteoporosis, and obesity. Health Canada's own review indicates that the drivers of these negative health outcomes extend beyond the targeted nutrients of the proposed FOP labelling and refers to insufficient intake of other nutrients.

The need for more inclusive dietary guidance is reflected in current scientific literature, which continues to espouse the need for focus on the overall nutritional profile of foods and dietary patterns when looking to reduce chronic NCDs, and not just some specific nutrients in isolation⁴. The RIAS itself articulates that vitamin D and calcium intake

² Canadians do not consume enough of the following nutrients: calcium, fibre, magnesium, potassium, vitamin A, vitamin C, Vitamin D, and zinc

³ Health Canada. Evidence review for dietary guidance. Technical report 2015. 2016.

⁴ Mozaffarian D. Dietary and policy priorities for cardiovascular disease, diabetes, and obesity: a comprehensive review. *Circulation* 2016;133(2):187-225.

are critical to addressing musculoskeletal diseases like osteoporosis, while there is significant evidence that nutritional drivers of obesity are far more nuanced than the overconsumption of the three nutrients of concern^{5,6,7,8}. FOP labels with a narrow focus on three nutrients ignore the broader nutritive properties of food products and fail to reflect up-to-date scientific evidence that introduce critical nuance and raise important questions as to the understandings of how sugar, saturated fats, and sodium impact the health outcomes of concern^{9,10,11}.

While a number of studies have already demonstrated the disconnect between the nutrient-specific FOP labelling approach and the available scientific evidence, the RIAS itself also highlights the likelihood that this labelling approach will create additional confusion for Canadians seeking out healthier eating options. As stated in both the 2015 Health Canada Evidence Review and the RIAS, musculoskeletal disease is highlighted as a health outcome of concern, as is the insufficient intake of both calcium and Vitamin D. Despite this evidence, dairy products would be one of the categories most affected by FOP warning labels even though dairy products are the primary vehicle for vitamin D fortification and calcium intake for many Canadians.

The lack of FOP information on overall caloric intake is particularly concerning, given its relationship to obesity, demonstrates a similar imbalance. The proposed FOP labels suggest that three nutrients of concern are the primary factors in determining the healthfulness of a given food product. But this suggestion omits critical information on nutritional properties or other considerations, like caloric intake, that are critical to establishing healthy dietary patterns. The end result of these proposed FOP labels could see snack foods like chips, and diet sodas left without warning labels, while cheeses that contain a number of other positive nutritional benefits, may be affixed with a warning label that will decrease consumption. This does not result in a more informed consumer who makes healthy decisions, but rather leads to greater confusion as to the healthfulness of any given food product.

As a result, this narrow focus of FOP labelling will not only create unnecessary changes in consumption patterns, it could also result in unintended negative health consequences due to its oversimplification of health considerations. While the Nutritional Facts Table (NFT) presents a more comprehensive overview of a food products complete nutritional profile, the RIAS repeatedly notes that many Canadians do not understand or spend

⁵ Rippe JM & Angelopoulos TJ. Sugars, obesity, and cardiovascular disease: results from recent randomized control trials.

⁶ Mozaffarian D et al. Changes in diet and lifestyle and long-term weight gain in women and men. *N Engl J Med* 2011;364:2392-2404.

⁷ Johnson RK et al. Dietary sugars intake and cardiovascular health: a scientific statement from the American Heart Association. *Circulation* 2009;120:1011-1020.

⁸ De Souza RJ et al. Intake of saturated and trans unsaturated fatty acids and risk of all cause mortality, cardiovascular disease, and type 2 diabetes: systematic review and meta-analysis of observational studies. *BMJ* 2015.

⁹ Institute of Medicine. Sodium intake in populations: assessment of evidence. Washington, DC: The National Academies Press, 2013.

¹⁰ Alexander DD et al. Dairy Consumption and CVD: a systematic review and meta-analysis. *British Journal of Nutrition*, 115(4), 737-750.

¹¹ Sievenpiper JL. Sickeningly sweet: does sugar cause chronic disease? No. *Can J Diabetes* 2016;40:287-295.

the time to review the NFT. There is no evidence provided to suggest that FOP labels will result in more time spent analysing other fact-based information. The “lack of quantifiable information available relating to mandatory FOP labels”¹² is noted throughout the RIAS, and CFA suggests that additional analysis of existing FOP labelling regimes is required to ultimately determine the efficacy of such an approach before assuming such significant benefits would accrue to the health of Canadians.

CFA Recommends:

- A comprehensive and transparent review of the evidence base to determine whether there is support for FOP labels focused on three nutrients of concern.
- Additional analysis of existing mandatory FOP labelling regimes, particularly the model in Chile, to determine whether there is sufficient evidence of efficacy and improved health outcomes to adopt such an approach.

3. Conflicting Government Opinion

The concerns raised by the lack of evidence on the effectiveness of existing FOP regimes are further compounded by the significant scientific evidence that neither supports isolated nutrient-specific approaches nor justifies the focus on the identified nutrients of concern. Health Canada has regularly referenced Chile’s FOP labelling regime as a model for Canada, even though the Government of Canada and other countries repeatedly raised concerns with Chile’s proposed FOP Labelling regime at the World Trade Organization (WTO) Technical Barriers to Trade Committee ,.

The Canadian government repeatedly raised objections to Chile’s FOP labelling proposals from 2013 to June 2016 because they “deviated from international standards”, “were not based on science”, and “were more trade restrictive than necessary” ¹³. Not only does this raise concerns regarding the broader trade implications of the proposed FOP approach, it also emphasizes the disconnect between the proposed approach and the available scientific evidence.

The imposition of an unduly restrictive labelling regime could, also be perceived as trade irritants by a number of Canada’s trading partners. Canada’s agri-food industry is heavily dependent on exports and continues to strive for increased market access around the world. Creating unnecessary irritants, through FOP label requirements that “deviate from international standards” and are “not based on science”¹⁴, will impede the Government of Canada in its ability to meet the ambitious export growth targets set for the agri-food sector in Budget 2017.

¹² Canada Gazette Part I. Regulations amending certain regulations made under the Food and Drugs Act (nutrition symbols, other labelling provisions, partially hydrogenated oils and vitamin D). 2018-02-10 Vol.152, No.6.

¹³ WTO Trade Barriers Committee Meeting Minutes of 4-6 November, 2015.

¹⁴ WTO Trade Barriers Committee Meeting Minutes of 4-6 November, 2015.

The RIAS raises further concerns with regard to the impact that FOP labels will have on Canada’s agri-food industry, noting “Firms whose products are affected by FOP labelling may lose consumers who will choose products that do not carry a nutrition symbol... Given that spending in this sector is unlikely to change overall... consumers will not spend less on food, the sector is not likely to lose a whole”. This analysis demonstrates a clear lack of understanding of how global many agri-food supply chains are structured. While food expenditures may not decrease overall, substitution of Canadian products with FOP labels for products that don’t require such labels could have dramatic consequences for a number of sectors of the Canadian agri-food industry, resulting in the substitution of products from other countries.

With such a narrow focus on three nutrients, there is no guarantee that these products will contribute to broader health objectives, resulting in substitutions that do little more than reduce the consumption of Canadian products. Without a more robust cost-benefit analysis that extends beyond the costs associated with immediate implementation, the RIAS remains woefully inadequate. CFA would, again, note the need for a more comprehensive RIAS that truly accounts for all quantifiable costs and benefits, rather than the imbalanced analysis contained within the existing RIAS.

The following section outlines a range of concerns with the RIAS that require further attention before any informed decision can be made on the proposed FOP labelling regulations.

4. The Need for a Balanced, Comprehensive Cost-Benefit Analysis

While the previous sections have referenced a number of flaws within the RIAS, the lack of balance in the cost-benefit analysis lies at the heart of the CFA’s concerns on this front. The cost-benefit analysis is heavily weighted towards the quantification of benefits and exclusion of costs.

To begin with the analysis of benefits, there are a number of assumptions made at the outset that either lack clear explanation or, in some instances, appear contradictory to other statements in the RIAS. First and foremost, the assumption of a 1.5% reduction in direct and indirect health costs does not appear to have any basis in actual evidence. While ostensibly related to improvements in the aforementioned NCDs, this benefit rate is then projected, on a compounded basis, over 10 years to derive an overall benefit of \$3.19 billion. CFA believes the basic efficacy of the proposed FOP labelling approach and the lack of quantitative evidence informing this assumed benefit rate are primary factors that raise fundamental questions about its accuracy.

Moreover, the RIAS also appears to rely on a number of other untested assumptions regarding the expected benefit of these labelling provisions over time. While assuming a 1.5% improvement in health outcomes compounded over ten years, the RIAS also clearly states that “a review of the literature indicated that consumer reliance on labels is usually high during the beginning of a label change campaign and then gradually decreases over time”¹⁵. The analysis acknowledges this reduced rate of reliance by assuming only 75% of Canadians would

¹⁵ Canada Gazette Part I. Regulations amending certain regulations made under the Food and Drugs Act (nutrition symbols, other labelling provisions, partially hydrogenated oils and vitamin D). 2018-02-10 Vol.152, No.6

rely on FOP labelling, despite the fact that only 50% of Canadians currently rely on the NFT and ingredients list. Similarly, no quantitative evidence is given to suggest why a 75% reliance rate is used.

Although a number of unfounded assumptions raise serious questions as to the accuracy of the benefits calculation, the calculation of costs related to these proposals are even more problematic and clearly highlight an imbalance in the cost-benefit analysis. While benefits are assessed and calculated over a 10-year horizon, the calculation of costs is limited to a one-time implementation cost of \$836.95 million. However, the RIAS goes on to reference a range of costs that are deemed 'non-quantifiable', including that:

- “Increases in labelling costs may have to be absorbed by Canadian consumers due to increases in food prices to recover costs.
- Opportunity costs lost from product innovation in order to comply with proposed Regulations in approximately three years.
- Loss of market share due to carrying an FOP nutrition symbol.”¹⁶

Furthermore, the RIAS states that “there is no information available at this time to determine by how much these costs could increase; however, margins with the food manufacturing industry are slim, so an increase would be expected”¹⁷. The exclusion of these costs results in a grossly imbalanced cost-benefit analysis that overstates benefits while underestimating the associated costs.

CFA disagrees that these costs cannot be calculated. The reliance on assumptions throughout the analysis of benefits suggests that a similar set of assumptions, would be possible to assess the year-over-year costs associated with this proposal. For example, the assumptions regarding health benefits pertain to changes in consumption habits, and these could easily provide a basis for a comparable analysis of market share losses across the industry. Similar analyses should be possible regarding the impact of labelling costs on firms’ research & development expenditures at a minimum. As the RIAS currently stands, it does not adequately analyse or assess the true costs and benefits associated with the proposed regulation.

CFA Recommends: Development of a comprehensive cost-benefit analysis within the RIAS that is grounded in evidence and provides comparable analysis of both costs and benefits associated with the proposed regulation.

¹⁶ Ibid.

¹⁷ Ibid.

Conclusion & Summary of Recommendations:

CFA looks forward to the opportunity to provide further input on how to ensure a more balanced, representative analysis informs these proposed regulations through a more comprehensive and balanced regulatory development process. CFA also recommends that Health Canada carefully consider the evidence base through a more balanced and transparent review to ensure Canada's dietary guidance, moving forward, has the greatest potential to improve health outcomes for Canadians.

Dietary guidance from an authoritative voice, such as Health Canada, can have long-lasting consequences for the Health of Canadians. If put into place based on incorrect assumptions and imbalanced information, future corrections to Canada's dietary guidance will face additional hurdles through the societal norms and beliefs this guidance engenders. If dietary guidance is not developed through a sufficiently measured approach that truly considers all the best available scientific evidence, potential negative health consequences for Canadians can easily span decades. For this reason, CFA strongly advocates for the following:

1. A comprehensive and transparent review of the evidence base to determine whether there is support for FOP labels focused on three nutrients of concern;
2. Additional analysis of existing mandatory FOP labelling regimes, particularly the model in Chile, to determine whether there is sufficient evidence of efficacy and improved health outcomes to adopt such an approach; and
3. Development of a comprehensive cost-benefit analysis within the RIAS that is grounded in evidence and provides comparable analysis of both costs and benefits associated with the proposed regulation.

If you have any questions regarding this submission, please do not hesitate to contact Scott Ross, Director of Business Risk Management and Farm Policy at scott@canadian-farmers.ca or 613-236-3633 ext. 2324.