

FOOD PROCESSING INDUSTRY ROUNDTABLE
REGULATORY INITIATIVES WORKING GROUP
RESPONSE TO LABELLING CHANGES PROPOSED BY HEALTH CANADA AND
THE CANADIAN FOOD INSPECTION AGENCY

June 2017

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Preface

The Agriculture and Agri-Food Canada Food Processing Industry Roundtable invited Health Canada and the CFIA to its October 2016 meeting to present the intended regulatory and policy proposals addressing the labelling and marketing of processed foods. Following the presentations, industry expressed strong support for Health Canada's and CFIA's objectives of shaping a more favourable food environment that makes healthier eating choices easier for Canadians. However, FPIRT participants indicated that the regulatory modernization initiatives will impose additional burden and cost on food manufacturers and will have significant impacts for innovation, growth and competitiveness, at a time when margins are small and industry is under pressure to innovate and compete globally. Industry believes that it is crucial to identify alternate approaches to achieving these objectives. The Roundtable established an industry-led regulatory initiatives working group to assess the cost implications and to offer constructive feedback to Health Canada and the CFIA on mitigating the impact of the labelling policy proposals on food processing manufacturers. This report presents the results of the working group's efforts.

On May 26, 2017, Sylvie Cloutier, Chair of the working group, presented a summary of this report at the Food Processing Industry Roundtable (FPIRT) meeting. Participants reiterated their support for the overarching policy objectives to help consumers make informed food choices but emphasized their strong concerns with the potential compliance costs, feasibility of the timelines, lack of industry consultation, and effectiveness of the measures in terms of reducing obesity, particularly in the absence of government support for consumer education. Participants indicated further dialogue is needed on the proposed approaches and timeline, and agreed to share any additional data with Health Canada (e.g., McKinsey report on obesity, consumer insights, and assessments of front of package labelling regimes).

Christine Donoghue, Associate Deputy Minister at Health Canada, and Carolina Giliberti, Executive Vice-President of the CFIA, were present at the FPIRT meeting. Industry voiced concerns with the front-of-package "warning" symbols. Health Canada indicated that the proposed front-of-package labelling was never intended to be perceived as a "warning". Health Canada committed to completing additional consumer testing and analysis and to consider the merit of a multi-stakeholder forum to examine a range of approaches for meeting the policy objectives while garnering maximum support for the final policy.

Executive Summary

The Canadian food and beverage processing sector is the second largest manufacturing sector in Canada. In terms of the value of production, it is Canada's largest manufacturing employer, and is a vital link in the agri-food system as a major buyer of Canadian primary agriculture products.

Currently the Government of Canada is challenging the sector to be a world leader in food production and to invest in innovation to order to help grow the economy and to address the global demand for food which is expected to triple internationally by 2050. While industry welcomes the challenge, there is a concern that the large number of regulatory modernizing activities currently underway will shift investment funds away from innovation and growth and into regulatory compliance. The introduction of new food inspection regulations combined with new food labelling requirements and marketing restrictions, are imposing additional burden and cost on food manufacturers

At its October 2016 meeting, the Food Processing Industry Roundtable established an industry-led regulatory initiatives working group to assess the cost implications and to offer constructive feedback to Health Canada and the CFIA on mitigating the impact of the labelling policy proposals on food processing manufacturers.

The food processing industry supports Health Canada's and the CFIA's objectives of creating a food environment that makes healthier eating choices easier for Canadians. However, industry concluded that: 1) High implementation costs and lack of substantiation of effectiveness do not support mandatory front-of-pack warning labels; 2) Multiple, sequential label initiatives, with increasingly shorter compliance timelines, and delays in the availability of technical guidance documents, increases the cost of implementation; 3) Front-of-package warnings are premature. The formal evaluation of the voluntary sodium reduction strategy and 2015 Canadian Community Health Survey consumption data should be considered, and the effectiveness of the December 2016 nutrition labelling amendments should be evaluated first; 4) Lack of opportunity for industry engagement early in the policy development process undermines success and is inconsistent with practices used in other countries; 5) Front-of-package warning symbols on food approved as safe to eat will undermine public trust. Furthermore, the policy is complex and inconsistently applied, which will contribute to consumer confusion; and 6) A flexible, forward thinking approach to labelling, which addresses consumer behaviour trends, social media and the evolving retail environment, is required.

The Food Processing Industry Roundtable's Regulatory Initiatives Working Group respectfully submits the following recommendations to Health Canada and the CFIA, which fall under four overarching themes.

Theme A: Proactively engage with stakeholders earlier in the policy development process

The food industry has an immense amount of knowledge, data, scientific understanding, consumer insights and practical advice that no other stakeholder can provide. Engaging early would allow regulators to have this information in hand when considering various policy options and ensure that robust, scientifically substantiated and effective policy options are proposed. Voluntary approaches, education campaigns, neutral and factual labelling schemes impose substantially less burden on industry, have high participation rates and are able to influence consumer behaviour. It is consequently recommended that the Government of Canada:

1. Investigate more flexible, forward-thinking and cost effective alternatives to front-of-package warnings to address expanding consumer information preferences.
2. Develop Government-endorsed common criteria and standards for displaying nutrients of interest in industry-developed front-of-pack and digital labeling schemes.
3. Speed up the modernization to the Standards of Identity to reduce barriers to reformulation.

Theme B: Ensure sufficient research to support the effectiveness of proposed policies

It is imperative that any policy be based on strong scientific evidence. The move to mandatory front-of-package warnings is premature as other initiatives have yet to be evaluated. It is consequently recommended that the Government of Canada:

4. Complete the formal evaluation of the voluntary sodium reduction strategy and the evaluation of consumption data from the 2015 Canadian Community Health Survey to gain a better understanding of progress to date and consumer behaviours.
5. Evaluate the effectiveness of the December 2016 nutrition labelling amendments (Nutrition Facts table and ingredient list) before imposing more label changes.
6. Pilot the voluntary introduction of a neutral fact-based front-of-pack system, which reflects the Nutrition Facts table values and includes both positive nutrients and nutrients of concern, on a sample of foods and compare its results to existing industry initiated programs.

Theme C: Invest in consumer education to build on previous initiatives

Canadians enjoy and consume a wide range of foods in a variety of locations. Investment in consumer education instead of developing policies that are inconsistently applied to only a portion of food products, will not only build on previous investments in education, but also empower consumers to make choices within a broader context of healthy diet and allow industry to focus on productivity, growth and meeting consumer demands. It is consequently recommended that the Government of Canada:

7. Develop a comprehensive consumer educational program that can apply to all aspects of consumers' food purchases, including food service, foods made and sold at retail, and alcoholic beverages such that it results in a balanced diet.

Theme D: Shift the coming-into-force timeline to 5 years after the last labelling change
Multiple, sequential label changes, developed and introduced independently by Health Canada and the CFIA, create unnecessary costs and burden on industry. To mitigate costs and administrative burden, many industry stakeholders will wait until all of the regulations and policies are final and technical guidance is made available before initiating label amendments. The 5-year compliance timeline of 2021 introduced with Health Canada's nutrition labelling amendments is eroding as the front-of-package labelling policy and the CFIA's Food Labelling Modernization are still under development. It is consequently recommended that the Government of Canada:

8. Shift the coming into-force and compliance enforcement to 5 years after the last label change is finalized.
9. Accelerate the availability of technical guidance documents and information and training sessions.
10. Implement an "education first" compliance promotion strategy.

The food processing industry is ready to work with the Government of Canada to improve nutrition and lower the incidence of diet-related chronic diseases while removing unnecessary obstacles to economic growth, as advised in the Advisory Council on Economic Growth's report¹.

¹Advisory Council On Economic Growth (2017) Unleashing the growth potential of key sectors

Introduction

The food and beverage processing sector is important to this country because it provides jobs and creates economic wealth. It is the second largest manufacturing sector in Canada in terms of the value of production, with sales worth \$112.2 billion in 2016². It is also Canada's largest manufacturing employer, providing 257,000 jobs in 2016³. In addition, the sector is a vital link in the agri-food system, acting as a major buyer of Canadian primary agriculture products and providing a secure source of supply for retail and food service distributors.

Continued prosperity depends on the sector's ability to maintain an economically viable manufacturing base that can sustain production for domestic requirements while increasing exports. Taking inflation into account, in real terms, manufacturing sales were flat during the last few years and did not keep pace with population growth in Canada⁴. While exports of processed food and beverage products continue to grow, and stood at a record value of \$33.5 billion in 2016, imports are also increasing and were valued at \$32.6 billion in 2016. Although the industry's trade surplus of \$883 million compares favourably to its deficits of the last few years, it remains far behind the industry's peak surplus value of \$5 billion in 2004⁵. Furthermore, in recent years, both productivity growth⁶ and profit margins⁷ in the Canadian food processing sector have been lower than those in the United States.

In addition to increased global competition, the food manufacturing sector is also continuously responding to shifting consumer and/or regulatory demands and adjusting to the demands of a consolidated retail environment. Larger retailers, such as Costco, Walmart and Loblaws, as well as emerging on-line food retailers, such as Amazon, are placing more obligations and costs on their vendors. For example, there is an increase in the requirement to verify product attributes using third party certification programs addressing a broad range of factors like animal welfare, sustainability, organic and other production practices. As well, proprietary front of package retail labelling programs that address both nutrition and quality attributes (e.g., Guiding Stars for Loblaw, My Healthy Plate for Metro, Simple Nutrition for Safeway, etc.) are prevalent. The explosion of information sources to address divergent consumer interests has stimulated interest

² Statistics Canada, CANSIM Table 304-0014. Monthly Survey of Manufacturing. Food and beverage manufacturing sales (\$112.2B); second to transportation equipment manufacturing (\$130B)

³ Statistics Canada, CANSIM Table 281-0023, Survey of Employment, Payrolls and Hours, all employees.

⁴ Calculations by AAFC, based on Statistics Canada data: Monthly Survey of Manufacturing (Table 304-0014), Industrial product price indexes (Table 329-0077) and population estimates (Table 051-0001).

⁵ ISED, Strategis Trade data online, based on Statistics Canada trade data, NAICS 311 and 3121.

⁶ AAFC Calculation of labour productivity as measured by real production value per hour worked, using: US Bureau of Labour Statistics, Industry Productivity, Number of Hours; US Census Bureau, Manufacturers' Shipments, Inventories, and Orders data, and Statistics Canada, CANSIM Tables 304-0014 (Monthly Survey of Manufacturing) and 383-0030 (Labour statistics by business sector industry, hours worked for all jobs), 2004-2013.

⁷ Sources: AAFC Calculation using: Statistics Canada, Quarterly Financial Statistics; and US Census Bureau, Quarterly Financial Statistics.

across the sector in expanding existing or developing new digital platforms to disclose product information in a manageable format.

Several factors influence the success of the sector, including access to capital, investment in innovation, the availability of labour, regulatory affairs personnel, and the regulatory environment.

Regulatory modernization is essential to the development of a regulatory environment that fosters innovation, supports competitiveness, enables market access and attracts investment while protecting and maintaining the health and safety of Canadians. The regulatory environment defines the standards for health and safety of the food supply, controls what ingredients, food additives and processing aids can be used, determines how fast innovative foods can enter the marketplace and prescribes what information must appear on a product label. A robust regulatory environment that respects Canada's obligations under World Trade Organization agreement ensures fair and efficient commerce and can help facilitate the movement of goods between countries. However, regulations that do not align with global competitors or impose additional costs on domestic producers can become an impediment to the success of the sector.

Currently in Canada, there are a number of regulatory modernizing activities underway which impact the food processing sector. The largest, single initiative is the introduction of the Canadian Food Inspection Agency (CFIA) Safe Food for Canadians Act, which received Royal Assent in November 2012. This new legislative foundation consolidates 14 corresponding regulations with a single set of food inspection regulations that apply to all food imported, exported and prepared for inter-provincial trade. The new outcome-based regulations will require all food establishments to be licensed, change the way food is inspected, expand the preventive control requirements and introduce greater requirements for traceability and record-keeping systems. Industry now has greater responsibility for ensuring their suppliers and export products meet Canadian standards. Final publication of the regulations in the Canada Gazette, Part II is anticipated in Winter/Spring 2018. Superimposed on this initiative, the CFIA is also consulting on an initiative to modernize its cost recovery program; regardless of the final proposal, the food processing sector will be facing dramatic increases in the fees charged to industry when inspections and certificates are required to support the movement of goods.

During this period when industry is focused on understanding the implications of the new CFIA food safety requirements, Health Canada has also introduced plans to change how foods are labelled and how they are marketed. A Healthy Eating Strategy, announced on October 24, 2016, includes a collection of new regulatory and policy proposals intended to carry out the Minister of Health's mandate. The Healthy Eating Strategy proposes: new front-of-package warnings for sodium, sugars and saturated fat; regulatory restrictions to eliminate industrially produced trans fat; restrictions on the commercial marketing of certain foods and beverages to children; and revisions to Canada's Food Guide. Health Canada also published regulatory amendments to

nutrition labelling in December 2016, which include changes to the Nutrition Facts table and to the list of ingredients. Industry has five years to come into compliance with the new requirements.

In addition to Health Canada's proposals, the Canadian Food Inspection Agency (CFIA) is also introducing additional label changes as part of its regulatory modernization initiative. The CFIA is proposing a minimum print size for the product's common name on the front label panel, declaration of the percent of highlighted ingredients in the ingredient list, enhanced company information and changes to the format of date markings. Food standards of identity are also expected to change in the near future.

The food processing industry supports the overarching objective of creating a food environment that makes healthier eating choices easier for Canadians and would like to actively engage with both Health Canada and CFIA in developing alternative approaches including education programs that will help achieve this objective. The Health Canada and CFIA labelling initiatives will result in changes for an estimated 140,000 SKUs of packaged food sold in Canada with limited data available to support their effectiveness in changing consumer eating patterns. While the final details of each of the regulatory proposals are unknown, it is clear that complying with these initiatives will require a significant level of investment by industry and in many cases introduce considerable impacts on internal operations and supply chains.

The Implications for Industry

Cost to food manufacturers

The label changes proposed by Health Canada and the CFIA will affect every prepackaged product sold in Canada and will dictate the need for all food manufacturers and importers to invest in redesigning their food packaging to ensure they are in compliance with these mandates.

Many factors, both internal and external to each company, will underpin the cost and complexity of making the required label changes. Costs associated to changing a label include nutrient analysis, packaging design element re-positioning, revised keyline artwork, new 6+ color film and plate for printing, as well as labour to manage, contribute and approve the modifications. In addition, the proposed front-of-package and legibility changes to the common name will trigger a redesign of the front panel for a portion of products and could challenge space assigned to branding and market-driven attributes.

In order to estimate the costs of implementing the proposed label changes, AAFC commissioned a study in early 2017. According to this report, 140,000 SKUs will need label changes⁸. Approximately 40 percent of these SKUs should only need to update

⁸ Impact Assessment of Food Labelling Regulatory Changes on the Food Processing Industry, March 2017, AAFC internal report.

the Nutrition Facts table and ingredient list, impacting only one printing plate (black). The costs for these types of changes vary from \$3,000 for most packages with a paper label to \$6,400 for direct printed cans. The other 60% of SKUs will need a major label redesign due to resizing or the addition of front-of-package warning symbols. The costs for label changes that require a full redesign, with 6 ink colours, typically range from \$4,700 for most packages with a paper label to \$36,200 per SKU for direct printed ready to drink cans. Taking into account the complexity of label changes required, packaging format and the type of label system, the total cost of updating the 140,000 product labels was estimated at \$1.1B. This estimate does not include unused label stock and lost product inventory, required investments in new equipment, changes to retail slotting fees or administrative cost of making changes to the GS1 national product registry.

Some convenience and single serving products may require larger labels or package size in order to comply with the additional information requirements. When resizing to incorporate the changes being proposed, it can be assumed that in some cases entire production lines may need to be retooled, or even replaced. The average retooling costs are estimated at \$100,000 and the study modestly estimated that approximately 5% of the packages that will require resizing will trigger a need for retooling. This adds an additional \$300M to the labelling costs.

Finally, manufacturers will incur additional administration (nuisance) fees imposed by the food distribution system to keep products active on the store shelves. For example, any change that triggers a change to a product's Global Trade Information Number (GTIN) or Universal Product Code (UPC), including a weight change or change in product dimension greater than 20% will result in an additional cost. Minor packaging changes will not trigger a change in fee.

The total net cost of the proposed label changes, when refined to address the different complexity of change by product type and the impacts on label size, equipment and food distribution system fees, are now estimated at \$1.8B⁹.

Finally, as food service products do not require a Nutrition Facts table, it is currently possible for manufacturers to have one food label per product with an ingredient list that can be used both in Canada and in the U.S. The nutrition labelling amendments introduced by Health Canada in December 2016 mandate changes to the ingredient list which will prevent manufacturers from using a common label for food service products; a unique label and SKU will need to be created separately for the U.S. and Canadian markets despite these products not being sold directly to consumers. This will result in additional labelling costs with limited benefit to achieving the designated health goals.

Reformulation costs were excluded from Health Canada's Cost-Benefit Analysis for the nutrition labelling amendments. As reformulation is a stated goal of the front-of-package

⁹ Impact Assessment of Food Labelling Regulatory Changes on the Food Processing Industry, March 2016, AAFC internal report.

labelling policy, the costs associated with reformulation should be included in the next Cost-Benefit Analysis. According to the Food and Consumer Products of Canada (FCPC), the reformulation of an existing product costs an average of \$75,000 to \$100,000, and takes, on average, 28 months. Data from a U.S. study has identified per-formula reformulation costs as ranging from USD\$11,626/formula to USD\$102,365/formula, with a midrange value of USD\$49,716/formula¹⁰. Reformulation is a complex process that includes a 10-month reformulation/ development cycle followed by an 18-month in-market cycle¹¹. Reformulated products could also be more costly to produce. For example, costs associated with the development of and seeking approval for potential substitute ingredients as well as the costs of such substitutes and/or other ingredients to replace sodium and sugar.

Impacts to the supply chain

Some single-ingredient products, such as 100% juice, honey and maple syrup, cannot be reformulated. Others, such as cheese, would be difficult to reformulate to avoid front-of-package warning labels. If the warning labels discourage consumers from choosing these products (e.g., if consumers choose a less nutrient dense beverage instead of 100% juice), there could be a decreased demand for these agricultural commodities and thus an impact on apple, grape and cranberry growers. Other agricultural producers that could also be negatively impacted if demand for products is blunted due to front-of-package warnings include wheat producers and dairy producers. This negative impact could mean lower farm income.

Furthermore, the rationale supporting exemptions is not clear and the exemptions appear to be applied inconsistently. For example, while sugar and brown sugar are exempt, molasses, and iconic, internationally recognized Canadian products such as honey and maple syrup will be subject to front-of-package warning labels. Applying warning labels to products typically associated with the “Canadian” brand and which have a reputation of safety, quality and trustworthiness could be detrimental to Canada’s international reputation. These Canadian products are often shared at trade shows and offered as promotional products.

Capacity Issues

Food safety is both government and industry’s top priority; recognition of the demands for adapting to the new legislation addressing food safety is needed before additional regulatory requirements are imposed on the sector.

Labelling changes, introduce, in addition to the direct costs stated above, significant capacity challenges as food manufacturers face indirect costs such as salaries and benefits or consultant fees for logistics, operations and regulatory affairs support. The pressure of managing label changes for all products in a short time period will be

¹⁰ Idem

¹¹ FCPC Feb 6, 2015, FCPC comments on Cost-Benefit Analysis being conducted by Health Canada, February 6, 2015

onerous and quite possibly may not be feasible under the proposed timelines. For some stakeholders, managing these label changes will tie up resources from their regulatory, purchasing, packaging, data compliance, quality assurance and marketing departments. Other stakeholders will need to hire consultants. As a result, less progress or investment will be made on projects to drive innovation, sales growth or cost reduction.

There is concern that the Canadian packaging sector will not have adequate capacity to manage the industry-wide demand for label changes. Escalating demand with a fixed supply capacity could result in inflated pricing and/or industry members having to seek out foreign suppliers, which adds complexity to the process and could impact environmental sustainability.

When mandatory nutrition labelling on pre-packaged foods was introduced by Health Canada in December 2002, the vast majority of products had already started to voluntarily add the information to the product label in advance of the regulation. The coming into force date also recognized the complexity of the changes and the resources required by granting small and medium enterprises additional time to comply. As a result, the demand on industry resources was spread out over a much longer period of time.

Furthermore, Canadian food and beverage companies exporting retail-ready products to the U.S. are also facing various food labeling changes which are not harmonized with the Canadian proposals. For example, the United States Food and Drug Administration introduced a new Nutrition Facts Label (published May 2016) and in parallel, the USDA introduced new requirements for Nutrition Facts Labels for meat and poultry products. In addition, the U.S. is preparing to introduce new rules for mandatory disclosure labelling for genetically modified foods and ingredients as well as restrictions for the term 'natural' on product labels. Food manufacturers are currently reviewing their supply chain and preparing for these new labelling rules. Growing Canadian valued-added food exports to the U.S. is a high industry-government priority. As a result, Canadian regulators should factor in the costs/timelines for label compliance in the context of the broader North American market, especially given that on all these labeling initiatives there is no cross-border regulatory harmonization (although certainly some regulatory alignment on the Nutrition Facts Label changes).

Multiple sequential label changes

Health Canada and the CFIA have responsibility for different aspects of the food label and each is leading multiple regulatory and policy initiatives impacting food labels. Coordination and understanding between the two regulatory agencies is highly important, as multiple, sequential label changes introduce unnecessary costs on industry.

As an example, Health Canada introduced changes to the list of ingredients as part of the nutrition labelling amendments finalized in December 2016. The CFIA is currently proposing additional changes to the list of ingredients with the proposed declaration of

the percentage of highlighted ingredients as part of its Food Labelling Modernization initiative. These independently proposed changes to the list of ingredients are just one example of sequential label changes for industry. To limit the administrative burden and costs associated with these changes, many industry stakeholders will want to wait until all regulatory proposals have been finalized so that they can then address all changes in one label redesign.

Health Canada and the CFIA indicate they are working towards aligning the transition periods and coming-into-force dates for all label changes, based on Health Canada's nutrition labelling amendments timeline and 5-year compliance date of 2021. However, as the front-of-package labelling policy and the CFIA's label modernization proposals are still under development, there is concern that by the time all of the policies are finalized, industry will have insufficient time for implementation. This concern is amplified by the additional delay in the development of technical guidance documents which provide industry with detailed information needed to comply with the regulations. In March 2017, Health Canada and the CFIA informed stakeholders that the technical guidance for interpretation of the nutrition labelling amendments finalized in December 2016 will only be made available in March 2018 – 15 months after the regulations were past. Until the guidance is made available, industry needs time to communicate with regulators as many points of clarification are required on some sections of the regulations to ensure consistent interpretation.

Intellectual property

With respect to the CFIA's proposal of declaring the percentage of highlighted ingredients, food manufacturers are concerned that they are at risk of revealing their intellectual property. The risk is particularly severe for branded manufacturers, as the percentage ingredient information would provide private label manufacturers with greater insight into how to copy branded products. An example would be almond beverages.

In addition, an adequate range of tolerance needs to be set for the declaration of the percentage of the highlighted ingredients, as the quantity of some ingredients may vary across lots in products. For example, the proportion of ingredients when making croissants will vary depending on ambient temperature and humidity, and due to the imprecise nature of some machines.

Opportunity cost

The food processing industry invests about \$2.2 billion annually in capital expenditures, but as a percentage of food manufacturing sales this is trending downward, from about 3% in the 1990s, to about 2% in the last few years. The sector invests less in research and development (as a percentage of GDP) compared to other manufacturing sectors and less than its counterparts in other developed countries. Given the magnitude of the costs associated with the labelling proposals, industry's ability to invest in equipment, research and development or new product development will be compromised as innovation capital is reassigned to regulatory compliance.

Since 2008, the Consumer Packaged Goods market in developed countries has faced flat or even negative volume growth, intense competition for market share and very tight margins. This has resulted in a sweeping trend of “zero based budgeting” and huge pressure for “cost take out” measures. This is exemplified by company mergers and acquisitions (e.g. Kraft-Heinz merger with the 3G/Berkshire Hathaway). The soft Canadian dollar compared to other currencies has provided some relief for the Canadian food industry, however the CFIA’s cost recovery proposal will significantly increase service fees for the Canadian food industry in the near future. In general, as operating and regulatory costs are higher in Canada and plant scale is smaller, any increase in regulatory costs will have an impact on Canada’s food processing industry.

Effectiveness of the proposed policies

Regulations are only one of several policy instruments available to government when addressing a public health issue. Government of Canada directives indicate that the effectiveness and appropriateness of both regulatory and non-regulatory instruments should be assessed before proceeding. It is important to build on previous policies and ensure minimal burden and cost by consulting, coordinating, and cooperating not only across the federal government, with provincial and territorial governments and other jurisdictions, but also with businesses and Canadians. The Cabinet Directive on Regulatory Management outlines the requirement to provide stakeholders with *“opportunities to take part in open, meaningful, and balanced consultations at all stages of the regulatory process”*. Furthermore, departments and agencies are to *“identify the appropriate instrument or mix of instruments, including regulatory and non-regulatory measures, and justify their application before submitting a regulatory proposal”*. Industry is concerned that the opportunities for industry engagement in policy development have been dramatically reduced, particularly with regard to the Healthy Eating Strategy.

Diet-related chronic diseases are multifactorial and there are significant challenges associated with estimating a direct correlation between the dietary components, label reading and reduced health care costs. Given the paucity of data evaluating the effectiveness of front-of-package warning labels, the food processing industry is concerned that the approach used in the Cost-Benefit Analysis, over-estimates the health benefits, particularly reductions in health care spending, while underestimating the costs imposed on food manufacturers. Furthermore, there is inadequate scientific research demonstrating the effectiveness of the proposed front-of-package approach in changing consumer behavior. Since industry will absorb the full cost of the labelling initiatives, food manufacturers and indeed all stakeholders need to have greater confidence that the labelling proposals will achieve the desired outcomes of reducing chronic diseases.

Nutrition is only one of many types of information that the modern consumer looks up before making a product purchase. Consumers want more information than can

possibly appear on the label. They are embracing a wide range of information channels, including social media, websites and smart technology, to gather information and form their knowledge base. Any policy aiming to effectively influence consumer food choices must consequently be more forward thinking. Policies need to be applicable to new and emerging information sources, such as digital platforms.

Health Canada may also have underestimated the CFIA's capacity to enforce these proposed policies. The CFIA no longer provides a pre-market label review service, suggesting that staff time has been reallocated to higher priority areas as the CFIA is shifting enforcement resources to areas of high risk, such as food safety. Adding another mandatory component to the label will require additional inspection time which, under the proposed cost recovery measures, will result in an additional cost charged back to industry.

Inconsistent application and exemptions

The impact of the proposed front-of-package policy on health outcomes is questionable as the policy applies to only a portion of consumer food purchasing decisions based on current food expenditure patterns. In 2015, consumer sales for food-related products had an estimated value of \$188B¹². Commercial foodservice sales were projected by Restaurants Canada to reach \$59.8 billion in 2015¹³. According to the NPD Group 2015 Canadian Chain Restaurant Industry Review, 45% of Canadians go out to a restaurant daily, which remains at the same level reported in 2013. Millennials, on average, now eat out of home 235 times a year¹⁴. Furthermore, the report indicates that there has been an increase in sales in the Home Meal Replacement category as both restaurants and grocery stores cater to consumer interest in convenient, ready-to-eat meal solutions.

Within the grocery store, the Nutrition Facts table is only required on pre-packaged foods and the front-of-package labelling policy will apply to only a subsection of those foods. The front-of package policy does not apply to approximately 57% of food purchases: as a number of categories are excluded: fresh fruits and vegetables (8%), deli, salad bars and prepared take-out foods (3%), alcoholic beverages at retail (11%), food service (29%) and alcoholic services (6%)¹⁵. Imposing mandatory warning labels on only a portion of foods purchased creates an uneven business environment by requiring processed food manufacturers to invest in new labeling systems and incurring regulatory compliance burden while competitors in other sectors are exempt from this requirement.

¹² AAFC calculations based on Statistics Canada, CANSIM Table 380-0085 - Detailed household final consumption expenditure, quarterly (dollars x 1,000,000)

¹³ GE Capital, fsSTRATEGY and The NPD Group, (2015) Canadian Chain Restaurant Industry Review

¹⁴ GE Capital, fsSTRATEGY and The NPD Group, (2015) Canadian Chain Restaurant Industry Review

¹⁵ AAFC calculations based on Statistics Canada, CANSIM Table 080-0022 - Retail commodity survey based on the North American Industry Classification System (NAICS), quarterly (dollars x 1,000)

The proposed front-of-package approach is also inconsistently applied within some food categories. For example, deli meats, soups, sandwiches, salads, desserts and confectionary products sold in a pre-packaged format would be subject to front-of-package warning labels, whereas the same product sold at the deli or fresh food counter would be exempt.

As the front-of-package policy will only apply to a small portion of the food consumed by consumers and will be inconsistently applied within product categories, consumers will likely question why foods are not all treated equally, and why the nutrients highlighted on food packages do not align with the new menu labelling policy implemented in Ontario, which provides calories in a factual manner.

Consumer use of labels

Data on consumer label reading behaviour appears to be relatively consistent over the past decade. Consumers continue to value price and taste ahead of nutrition/healthfulness and the gap appears to have widened in the past few years when the economy was suffering^{16,17}. Approximately half to 60% of North American consumers use nutrition information at least occasionally to inform their food purchasing decisions; expiration dates, Nutrition Facts table and ingredient list were used most frequently to guide food choices¹⁸. The most common use of food package information is to get a general idea of the caloric content of food¹⁹.

In this information age, consumers have unprecedented access to multiple sources of information about food, including social networks, self-proclaimed experts and web-based media. Consumers are consequently increasingly interested in their food, and seek a greater range of information from the food and beverage industry. This information includes product attributes, product contents, production practices and supply chain origin²⁰. Imposing a mandatory front-of-package labelling system focused solely on three nutrients is out of step with movement toward expandable information platforms to address this consumer interest in a wide range of information. Investing in a national education campaign rather than label-based warnings may be more appropriate to impact food choices in both retail and food service environments and would likely achieve the same level of health benefits.

Reformulation

One of the objectives of front-of-package labelling systems, including Health Canada's front-of-package warning labels, is to encourage the availability of foods lower in sodium, saturated fat and sugars by stimulating reformulation. It will be difficult or impossible to reformulate products such as cheeses, soups and single ingredient

¹⁶ International Food Information Council Foundation (2015) Food & Health Survey: Consumer Attitudes toward Food Safety, Nutrition & Health

¹⁷ Deloitte Consulting LLP 2016 Capitalizing on the shifting consumer food value equation

¹⁸ Canadian Foundation for Dietetic Research (2015) Tracking Nutrition Trends 2015

¹⁹ Canadian Foundation for Dietetic Research (2015) Tracking Nutrition Trends 2015

²⁰ Deloitte Consulting LLP 2016 Capitalizing on the shifting consumer food value equation

commodity foods to avoid warning labels. There are limits to reformulation, given the role these nutrients play in taste, texture and consumer acceptance. Sodium levels are also associated to specific product characteristics; such is the case for different varieties of cheese. Finally, products, such as 100% fruit and vegetable juices and purées, maple syrup and honey simply cannot reformulate. There may consequently have a negative impact on nutrient intakes if consumers avoid foods, including nutrient dense foods, with warning symbols on the label.

In some cases, entire food categories may have to carry the cautionary front-of-package logos despite the large differences in nutrient levels across the category. Consider a shopper attempting to select the healthier option between two canned soups that are identical in nutrient values and calories, except that one has 350 mg sodium per serving and the other has 750 mg sodium. Under Health Canada's current proposal, both soups would have the same 'high in sodium' logo on the front-of-package as they both exceed the sodium threshold of 345 mg per reference amount and serving size. All products in the soup category will require the front-of-package warning for sodium even if they have been reformulated to reach the voluntary benchmark guidance (i.e. voluntary targets) set by Health Canada. Therefore, these manufacturers are not being rewarded for reformulating under the voluntary initiative, and the entire food category may be rejected and overlooked by consumers despite offering nutritious, healthy, low calorie, and reduced sodium options.

The proposed policy also fails to recognize that manufacturers are continuously adjusting and developing foods to meet consumer expectations. Currently, one of the benefits of reformulating a product to be at least 25% lower in sodium, sugars, or saturated fat, is the ability to display a "reduced in" or "x% lower in" comparative nutrient content claim on the product's label. Unfortunately, some products that have been reformulated to be lower in sodium, sugar, or saturated fat as compared to their original versions would still be above the 15 % Daily Value (% DV) threshold per reference amount and require a front-of-package warning. For example, reduced sodium bacon would have both "reduced sodium" and the front-of-package warning for high in sodium, and a lower fat version of a granola cereal would have both "30% less fat than our regular granola" and the front-of-package warning for saturated fat. Consumer confusion may arise if a product displays both a "lower in" comparative nutrient content claim and a front-of-package warning for that same nutrient. Furthermore, manufacturers may be discouraged from realizing small, feasible reductions in sodium, sugars, or saturated fat if they have to display a warning that conflicts with the comparative claim. Thus the introduction of front-of-package warnings may actually become a deterrent for reformulation within some product categories.

The reformulation of a product containing 16% of the daily value of sodium would be encouraged as the manufacturer could avoid front-of-package warnings with a small reduction. However, the significant reduction in sodium of a product from 50% to 30% of

the daily value of sodium would not be rewarded as the product would still require a front-of-package warning.

In some cases, reformulation to avoid front-of-package labelling may impact the overall nutrient density of a product if alternatives ingredients have a lower nutritional value.

Regulatory barriers may also exist which can prevent reformulation. For certain nutrient dense prepared meat products, for example, the mandated Standard of Identity requires a certain sodium level for food safety purposes, which then triggers a mandatory front-of-pack warning. The Standards of Identity need to be modernized in a timely manner in order to support a reformulation goal.

In other cases, the regulations define naming conventions. For example, companies could replace sodium chloride with potassium chloride, as it has similar functional properties. Unfortunately, while sodium chloride can be listed as “salt” in the ingredient list, potassium chloride must be listed as “potassium chloride”. Food manufacturers would like to declare this ingredient as “potassium salt”, as this term appears to be more acceptable to consumers, however the regulations do not allow this nomenclature. Reducing sodium is consequently difficult for a food manufacturer who also has the objective of providing “kitchen pantry friendly” or “clean” label product lines.

Increased dialogue between government and industry would help identify barriers to reformulations and may result in more cost effective approaches for expanding the availability of healthy food choices than front-of-package warnings. Dialogue would ensure that regulations or documents which are incorporated by reference, if required, are modified in a timely manner to implement other creative approaches to public health objectives.

Public Trust

Health Canada’s proposed front-of-package warning labels policy is inconsistent with the Government’s longstanding approach that all foods that are approved for sale in Canada have been assessed as safe. Canada is internationally recognized for its robust regulatory framework and for its scientific rigour. Placing warning labels on Canadian food products could undermine public trust in the food industry, reduce confidence in the food supply and impact trade. It is also inconsistent with the CFIA’s guidance on alarmist claims, which states that claims that create alarm are generally considered misleading. Alarmist claims include claims that suggest some foods are good while others are bad, or associate guilt with certain foods.

There is concern that the front-of-package warnings proposed by from Health Canada (with stop sign and caution symbols) can leave consumers with the perception that there is inherent danger from consuming the product. The warning symbols introduce a disproportionate level of risk, seeing as the presence of allergens or raw meat, which can pose a true imminent health risk to some consumers, is declared in a factual and informative manner on food products. There is insufficient evidence that the

use of warning symbol is more effective at informing consumers that a product is high in a nutrient of concern than providing consumers with factual information using more neutral shapes, such as the formats used by most front-of-package schemes and trading partners around the world.

Finally, Health Canada's proposed front-of-package label warnings may drive consumers to avoid foods based only on the level of three single 'negative' nutrients. This is inconsistent with past initiatives such as the Nutrition Facts Education Campaign (NFEC), which aimed to help Canadians better use and understand the Nutrition Facts table to make purchasing decisions and highlighted 'positive' as well as 'negative' nutrients.

Consumer education

Investment in consumer education is essential to reach the Government of Canada's commitment to changing food choices to reduce the risk of non-communicable diseases and lower health care costs. The Sodium Working Group's Sodium Reduction Strategy for Canada recognized that in addition to industry product reformulation, investment in research and education are necessary components of a successful policy. The Group recommended a parallel educational effort be undertaken to help consumers become more aware of sodium in foods and receptive to changes to adjust their taste preference towards less salty foods.

In 2010, Health Canada introduced the Nutrition Facts Education Campaign. While Health Canada contributed \$1.6M to the campaign, the food industry contributed \$2.6M of funding and over \$20M in-kind contributions such as non-paid promotions and traditional advertising²¹ for phase 1 alone. Clearly there is room for greater government investment in education.

Health Canada evaluated phase 1 of the campaign between 2010 and 2012. There was a significant difference on the use of the Nutrition Facts table for Canadians that saw the Campaign communications when compared to those that didn't. For example, 172% more Canadians said they now always look at the Nutrition facts when they purchase a food product for the first time and there was 56% greater use of the Nutrition Facts table to compare different foods²². Clearly education can successfully increase label reading among Canadian consumers. Phase 2 was launched in May 2015; the estimated value and reach of the events and promotions will be calculated once all activities for 2016-17 are completed. However, Health Canada has recently decided not to proceed with Year 3 of the second phase of the Nutrition Facts Education Campaign.

²¹ Jennifer McCrea, Nutrition Advisor, Health Canada (2017) Personal communication

²² <http://www.fcpc.ca/Portals/0/NFEC%20Success%20Report.pdf> Accessed April 5, 2017.

Industry is expecting an increase in questions from consumers when the new labelling regulations are implemented; companies need to be able to redirect consumers to government education tools and supporting information.

Health Canada's Healthy Eating Strategy aims to promote public health and healthy lifestyles by creating a food environment that makes healthier eating choices easier for Canadians. However, it adds a level of complexity with new label requirements and is silent on the importance of consumer education. Health Canada's proposed front-of-package approach focuses on the avoidance of a narrow set of three nutrients and does not place those concerns into context regarding calories or positive nutrients. The proposed front-of-package approach duplicates information already provided on the updated Nutrition Facts table and repositions it as a warning which has the potential to drive consumers away from nutrient dense foods that contribute to a healthy, balanced diet.

Finally, the front-of-package approach proposed by Health Canada could prove to be confusing to both consumers and industry. First, as many products have small serving sizes and would consequently not provide 15% Daily Value of sodium, saturated fat or sugars per serving, the proposed front-of-package approach includes an adjustment to 50g/50ml. For products that require a front-of-package warning because of this adjustment, the % Daily Value information available on the Nutrition Facts table would be inconsistent; the warning signals that the food has 15% Daily Value or more of the nutrient, whereas the Daily Value in the Nutrition Facts table would be less than 15%. The confusion increases given the footnote emphasizing the Nutrition Facts Education Campaign message that 5% or less of a nutrient is a little and 15% or more is a lot. Second, the different thresholds for prepackaged meals (30% Daily Value) may be confusing for consumers. Third, the proposed approach has many exemptions (e.g., sugar is exempt, but honey and maple syrup are not; 2% milk is exempt, but 2% yogurt is not), which could cause consumer and industry confusion, create compliance issues and increase the risk of consumers rejecting entire nutritious food categories. Health Canada should therefore consider a different solution for products with small serving sizes.

Health professionals' support

Industry is not alone in its concerns regarding the Healthy Eating Strategy. The health and scientific communities have also raised concerns regarding aspects of the Healthy Eating Strategy. For example, Dietitians of Canada, the Canadian Nutrition Society and the University of Toronto Program on Food Safety, Nutrition and Regulatory Affairs do not support Health Canada's current proposed front-of-package labeling approach^{23,24,25}. They challenge the effectiveness of the policy and indicate that

²³ Dietitians of Canada: Toward Front-of Package Nutrition Labels for Canadians. Response to Health Canada. January 2017

²⁴ Canadian Nutrition Society: Response to Health Canada front-of-package labelling consultation. January 2017

²⁵ University of Toronto Program in Food Safety, Nutrition and Regulatory Affairs: Response to Health Canada front-of-package labelling consultation. January 2017

consumer research to assess how the proposed front-of-package system will impact consumer understanding of the full nutrition profile of a product is required.

The Policy Development Process

Engagement with stakeholders

Many of today's policy issues are complex, and early engagement with stakeholders enables regulators to better understand and assess, in the early stages of the policy development process, the feasibility of the various options considered to achieve the desired policy outcome.

Consumers, industry stakeholders, non-government organizations, and other government departments can also provide valuable insights into the benefits, costs, challenges and potential trade and economic impacts of policy options as each has different knowledge to share. Specifically, the food industry has an immense amount of knowledge, data, scientific understanding, consumer insights and practical advice that no other stakeholder can provide.

For example, a stakeholder recently made the observation that two of the proposed label changes, when both implemented, may be confusing to consumers. Health Canada's nutrition labelling amendments introduce a new footnote at the bottom of the Nutrition Facts table about % Daily Value to explain that 5% or less is a little and 15% or more is a lot. All foods requiring a Nutrition Facts table will need to include this footnote as of 2021. Parallel to Health Canada's nutrition labelling amendments, the CFIA is proposing that the percentage of highlighted ingredients be declared in the list of ingredients. The declaration of percentage of ingredients could be confusing to consumers, especially as the list of ingredients is adjacent to the Nutrition Facts table and the new % Daily Value footnote (e.g., consumers may wonder if 15% of strawberries in jam is a lot).

Consultation associated with the Healthy Eating Strategy has been limited to policy options that have been pre-determined, with little or no consideration of their feasibility, associated challenges and alternative approaches. Of particular concern is industry's exclusion from discussions on revising Canada's Food Guide and the development of front-of-package warning label requirements. By excluding industry, Health Canada has inadvertently reinforced a negative perception that industry influenced previous policy decisions to such an extent that they no longer are anchored in evidence. Moreover, industry is also concerned that negative messages regarding processed foods in Canada's Food Guide and associated guidance and warning symbols on food product labels will undermine public trust in the food supply. Earlier involvement would result in more robust and effective policy options to meet public health goals.

Mandatory vs voluntary

The prohibition of partially hydrogenated oils (PHOs) from the food supply and the proposed mandatory front-of-package warning labels are departures from the successful collaborations experienced through the voluntary approaches used to lower trans fat and sodium in the food supply and contrary to the principles of inclusiveness and collaboration outlined by the current Government of Canada.

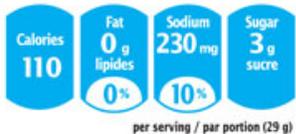
Imposing new regulatory requirements while a voluntary approach with a similar goal is still underway disregards the work that has been completed to date and the investments that have been made by industry through past voluntary approaches. This shift in policy approach is particularly surprising given that the results from the past monitoring reports indicate that food processors have voluntarily lowered sodium levels in all categories of foods and significantly reduced the use of PHOs in the food supply.

In 2010, the multi-stakeholder Sodium Working Group established by the former Minister of Health in late 2007 developed a population health strategy for reducing sodium intake among Canadians. The Sodium Reduction Strategy for Canada report recommended that Health Canada work with the food industry to establish voluntary sodium reduction targets by food category. The report recognized that for food supply changes to be successful, gradual reductions in salt content were necessary to ensure consumer acceptance. Industry has successfully invested in the gradual reduction strategy. Health Canada's next progress report for the voluntary approach to sodium reduction is scheduled for the end of 2017. Furthermore, an evaluation of Canadian sodium intake levels, using data from the 2015 Canadian Community Health Survey, will be completed in 2018.

Similarly, in 2007, a multi-stakeholder Trans Fat Task Force made recommendations to lower trans fats in Canadian foods by calling on food industry to voluntarily limit the trans fat content of vegetable oils and soft, spreadable margarines to 2% of the total fat content, and to 5% of total fat content for all other foods, including ingredients sold to restaurants. Monitoring results suggest that 97% of foods have reached the targeted levels. The remaining 3% of food ingredients should adjust over time as substitute ingredients become available and affordable, and challenges associated with performance and function are resolved. Given that the remaining products (e.g., dairy-free cheese, frosting, coffee whiteners, shortbread cookies, refrigerated dough, lard and shortening) are not part of the foundation of a healthy dietary pattern and should only be consumed occasionally, dedicating resources to address this issue using a mandatory approach is not the best use of resources to achieve population health outcomes.

Moving to a regulatory approach before the outcomes of the voluntary strategies for trans fat and sodium reduction have been fully evaluated undermines industry efforts undertaken under these strategies. It is also punitive toward those companies who reached the target sodium levels but will still require front-of-package warnings.

Furthermore, many retailers and manufacturers have invested in branded versions of front-of-package labelling such as Guiding Stars, President's Choice Blue Menu, Metro Irresistibles Life Smart, or Kellogg's cereal highlights:



A New View on Nutrition

While the Nutrition Facts table is a great way to help you determine the overall nutritional values of certain foods, each box of Kellogg's® cereal highlights key nutrients on the front of the pack.

Of the values shown, four nutrients – calories, fat, sodium and sugar – are a constant on every cereal package.

This information is in no way a replacement for the Nutrition Facts table, but is another helpful way to make it easier for you to make more informed decisions when standing in the cereal aisle.

These programs were developed voluntarily, in response to consumer desire for at-a-glance information about attributes that are of interest; including calories, sodium, fat and sugar. Industry is also increasingly adopting the use of digital platforms such as the SmartLabel™ system which have the ability to provide consumers with more information on new attributes as they become relevant to the market demands. These digital systems are forward thinking, expandable and flexible to respond to changes in the way consumers seek out and share information. Market innovation can be more rapid and timely than any government regulations as it is driven by new development in science, new knowledge, and consumer preferences. The proposed front-of-package labelling policy fails to acknowledge that these programs are already in existence.

International approaches

Codex Alimentarius provides general standards for food labelling, including on nutrition labelling to help promote consistency and avoid technical trade challenges. Currently there are no Codex standards addressing front-of-package labelling, although some countries have implemented voluntary front-of-package labeling. Generally there are three types of schemes: health logos, summary systems that provide an overall nutritional score based on a variety of complex nutrient criteria, and nutrient-specific systems that focus on a limited number of key nutrients:

Health logos - Voluntary schemes where food products that meet certain nutritional criteria receive a health logo (e.g. heart symbol, checkmark) are used in Sweden (Green Keyhole), Norway, Denmark, Finland (the Heart), the Netherlands, Czech Republic, Poland, Belgium and Slovakia (the “Choices” scheme). The Philippines and Singapore also have voluntary health logos.

Summary systems - The United Kingdom, Australia, Ecuador and Chile have schemes that judge nutritional quality (e.g. colour-coding or health warnings schemes rank foods from the most to the least advisable on the basis of their nutrient content). The schemes are voluntary in the United Kingdom and mandatory in Ecuador and Chile.

Nutrient-specific - All schemes based on the % daily consumption adopted by other governments (European Union, Turkey, Thailand, Malaysia and the Philippines) are on a voluntary basis and include at the very least the amount of energy (calories or kilojoules) of the food.

U.S. Facts up Front - Although not Government initiated, in the United States, the Grocery Manufacturers Association (GMA) and the Food Marketing Institute (FMI), joined forces and unveiled a new voluntary front-of-package nutrition labelling system called Facts Up Front in January 2011. This system adds fact-based nutrition information on calories, saturated fat, sodium and sugars. Up to two nutrients from a list of eight nutrients, most of which are under-consumed in the diets of most Americans may also be displayed. In September 2011, GMA and FMI announced “Facts Up Front” as the theme for this front-of-package labelling program’s \$50 million comprehensive, multi-faceted consumer education campaign (www.factsupfront.org). An online survey, conducted by Harris Poll on behalf of GMA found that 93% of shoppers agree that Facts Up Front makes nutrition information easy to “find and use” and 92% thought it was “simple to understand”²⁶.

Assessments

In 2011, the Institute of Medicine examined 20 front-of-package systems, studied consumer receptivity, understanding, and usability of the front-of-package labelling systems and held a public workshop to gather information from experts and stakeholders. Based on the Committee’s examination of the totality of the available evidence and identified characteristics for a model of a successful front-of-package symbol system, the Institute of Medicine Committee made the following recommendations:

- Recommendation 1: The U.S. Food and Drug Administration & U.S. Department of Agriculture should develop, test, and implement a single, standard front-of-package system to appear on all products;
- Recommendation 2: Implementation of a new FOP symbol system should include a multi-stakeholder, multi-faceted awareness and promotion campaign that includes ongoing monitoring, research, and evaluation²⁷.

In February 2017, the French Agency for Food, Environmental and Occupational Health & Safety (ANSES) evaluated five front-of-pack labelling systems for consumers (Nutri-repères; Nutri-couleurs; Nutri-score (or 5C); Health Star Rating (HSR); and SENS system). The goal was to assess the nutritional relevance of each system by its ability to

²⁶ GMA - Grocery Manufacturers of America (2014). “Facts Up Front Launches Consumer Education Campaign to Drive Awareness and Increase Nutrition Knowledge”. Retrieved from <http://www.gmaonline.org/news-events/newsroom/facts-up-frontlaunches-consumer-education-campaign-to-drive-awareness-incr/>

²⁷ Institute of Medicine (2010) Examination of Front-of-Package Nutrition Rating Systems and Symbols: Phase 1 Report, available at: <http://www.iom.edu/Reports/2010/Examination-of-Front-of-Package-Nutrition-Rating-Systems-and-Symbols-Phase-1-Report.aspx>

reduce the incidence of diseases in the entire population, through its effects on food choices. As part of the study, the experts assessed the ability of each front-of-package system to guide consumer behaviour, in the light of public health objectives. They found no evidence to suggest that the front-of-package systems examined have any effect in improving the choices of consumers. The Agency concluded that in the current state of knowledge, the nutritional relevance for public health of the front-of-package systems examined could not be substantiated. They also concluded that the implementation of a front-of-package system appears to be a supplementary measure, in the necessary continuum that includes educational initiatives, information and a regulatory framework. ANSES also reinforced the need for regular monitoring and evaluation of any front-of-packages system, given the policy objective of implementing such a system²⁸.

²⁸ <https://www.anses.fr/en/lexique/food-labelling>

Conclusions

The food processing industry supports Health Canada's and the CFIA's objectives of creating a food environment that makes healthier eating choices easier for Canadians. However, industry believes that the current approach introduces unnecessary regulatory burden on the food processing sector, while overlooking potentially effective alternative approaches. Upon review of the labelling proposals, the Food Processing Industry Roundtable concludes the following:

Conclusion 1

High implementation cost and lack of substantiation of effectiveness does not support mandatory front-of-package warning labels.

Conclusion 2

Multiple, sequential label initiatives, with increasingly shorter compliance timelines, and delays in the availability of technical guidance documents, increases the cost of implementation.

Conclusion 3

Front-of-package warnings are premature. The formal evaluation of the voluntary sodium reduction strategy and 2015 Canadian Community Health Survey consumption data should be considered and the effectiveness of the December 2016 nutrition labelling amendments should be evaluated.

Conclusion 4

Lack of opportunity for industry engagement early in the policy development process undermines success and is inconsistent with practices used in other countries.

Conclusion 5

Front-of-package warning symbols on food approved as safe to eat will undermine public trust. Furthermore, the policy is complex and inconsistently applied, which will contribute to consumer confusion.

Conclusion 6

A flexible, forward thinking approach to labelling, which addresses consumer behaviour trends, social media and the evolving retail environment, is required.

Recommendations

The Food Processing Industry Roundtable's Regulatory Initiatives Working Group respectfully submits the following recommendations to Health Canada and the CFIA, which fall under four overarching themes.

Theme A: Proactively engage with stakeholders earlier in the policy development process

The food processing industry is concerned that as part of the Cost-Benefit Analysis of the proposed policies, regulators over-estimate the health benefits associated with product labelling while underestimating the costs imposed on food manufacturers. The food industry has an immense amount of knowledge, data, scientific understanding, consumer insights and practical advice that no other stakeholder can provide. Engaging early would allow regulators to have this information in hand when considering various policy options and ensure that robust, scientifically substantiated and effective policy options are proposed.

Proposed policies should be well balanced to promote health and wellness for Canadians while allowing businesses to innovate and compete on a global level without being over burdened with regulatory changes. As stated in the Advisory Council on Economic Growth's report: "...government and business should work together to identify and remove the unnecessary obstacles to economic growth. Such a partnership would help raise our collective ambition and unleash Canada's real and inclusive growth potential [...] The agri-food and health sectors can work together to improve nutrition and lower the incidence of diet-related chronic diseases and help reduce future health-care costs."²⁹ Regulators must engage with industry to understand and work at eliminating the obstacles, such as outdated standards of identity, which prevent industry from complying with the policy objective as best they can.

Voluntary approaches, education campaigns, neutral and factual labelling schemes impose substantially less burden on industry, have high participation rates and are able to influence consumer. Early engagement with industry and consumers, along with strong evaluation protocols required greater consideration during the process to develop policy options. One example of successful collaboration between industry and regulators is the multi-pronged approach that was developed to address salmonella risks associated with raw, uncooked breaded chicken products. A consumer education campaign was implemented by Health Canada and the Canadian Partnership for Consumer Food Safety Education, and labelling for these products was improved (in the form of cooking instructions on the inside package) voluntarily by industry.

²⁹ Advisory Council On Economic Growth (2017) Unleashing the growth potential of key sectors

Recommendation 1:

Investigate more flexible, forward-thinking and cost effective alternatives to front-of-package warnings to address expanding consumer information preferences.

Recommendation 2:

Develop Government-endorsed common criteria and standards for displaying nutrients of interest in industry-developed front-of-pack and digital labelling schemes.

Recommendation 3:

Speed up the modernization to the Standards of Identity to reduce barriers to reformulation.

Theme B: Ensure sufficient research to support the effectiveness of proposed policies

It is imperative that any policy be based on strong scientific evidence. Furthermore, regulatory approaches need to balance the broader needs of government and stakeholders. The Advisory Council on Economic Growth's February 2017 report articulates that, in some cases, regulations that may achieve their intended objectives but also reduce growth are appropriate, however in other cases, regulations that are excessive or suboptimal in their design, can create unnecessary barriers to growth.³⁰ Mandatory front-of-package labeling falls into the latter category.

Health Canada's proposed front-of-package warnings not only focus solely on three nutrients to avoid, but also propose to use "stop" or "yield" style graphics. There is insufficient evidence that these are more effective than providing information in neutral shapes and symbols such as ovals, circles, or boxes, as used by most front-of-package schemes. There also appears to be a lack of sound scientific evidence that front-of-package labels specifically have a direct effect on consumer food purchasing decisions and that their use translates into a reduction of disease risk in the population. Government of Canada policies should require the same standards of evidence that industry must adhere to when substantiating disease risk reduction health claims.

The move to mandatory front-of-package warnings is also premature as other initiatives have yet to be evaluated. The comprehensive evaluation of sodium levels against Health Canada's sodium reduction targets is scheduled to begin in 2017. This food supply data can subsequently be combined with food consumption data from the 2015 Canadian Community Health Survey, to be released in 2018, to estimate population sodium intake levels. Together, this will demonstrate the amount of progress towards reducing sodium in processed foods and the effectiveness of the voluntary strategy in lowering the average sodium intake of Canadians¹.

³⁰ [Advisory Council On Economic Growth \(2017\) Unleashing the growth potential of key sectors](#)

Further, in December 2016, Health Canada updated the regulatory requirements for the Nutrition Facts table that is mandatory on most prepackaged foods in Canada. As the changes are intended to help consumers make more informed choices about the sodium and sugar content of their foods, the effectiveness of these changes should also be evaluated before imposing more label changes.

Recommendation 4:

Complete the formal evaluation of the voluntary sodium reduction strategy and the evaluation of consumption data from the 2015 Canadian Community Health Survey to gain a better understanding of progress to date and consumer behaviours.

Recommendation 5:

Evaluate the effectiveness of the Nutrition Labelling Amendments (Nutrition Facts table and ingredient list) before imposing more label changes.

Recommendation 6:

Pilot and evaluate the voluntary introduction of a neutral fact-based front-of-package system on a sample of foods and compare its results to existing industry initiated programs.

Theme C: Invest in consumer education to build on previous initiatives

As part of the Nutrition Facts Education Campaign, the Government of Canada committed to helping Canadians better understand and use the information on the Nutrition Facts table so they can make informed food choices for themselves and their families³¹. The Nutrition Facts table allows consumers to make informed decisions based on multiple factors. Encouraging people to look at the Nutrition Facts table to choose foods that have more of the nutrients they want to consume, such as fibre and calcium, and less of those they do not want, such as saturated and trans fats and sodium, will empower consumers to make informed choices that meet their individual needs and preferences. At the very least, any front-of-package scheme should reflect the Nutrition Facts table values, be factual, neutral and include both positive nutrients and nutrients of concern.

Canadians enjoy and consume a wide range of foods in a variety of locations. The current front-of-package warning approach, only focuses on prepackaged processed foods and excluded a large portion of consumer food purchases. Canadians need an approach that empowers them to make food choices that result in a healthy balanced diet regardless of setting.

³¹ <http://www.newswire.ca/news-releases/government-of-canada-launches-new-phase-of-nutrition-facts-education-campaign-517764051.html>

Investment in consumer education instead of developing policies that are inconsistently applied to only a portion of food products, will not only build on previous investment, but also empower consumers and allow industry to focus on productivity, growth and meeting consumer demands.

Recommendation 7:

Develop a comprehensive consumer educational program that can apply to all aspects of consumers' food purchases, including food service, foods made and sold at retail, and alcoholic beverages such that it results in a balanced diet.

Theme D: Shift the coming-into-force timeline to 5 years after the last labelling change

Multiple, sequential label changes, developed and introduced independently by Health Canada and the CFIA, create unnecessary costs and burden on industry.

To mitigate costs and administrative burden, many industry stakeholders will wait until all of the regulations and policies are final and technical guidance is made available before initiating label amendments. Health Canada and the CFIA have indicated that they are working towards a common coming-into-force date for all label changes. However, the 5-year compliance timeline of 2021 introduced with Health Canada's nutrition labelling amendments is eroding as the front-of-package labelling policy and the CFIA's Food Labelling Modernization are still under development. It is likely that industry will have two years or less to implement the label changes once all of the policies and regulations have been finalized.

Small businesses could benefit from longer transition timelines to reformulate, understand the new label requirements and comply with the new policies, and larger multi-nationals, can benefit from a longer implementation timeline to align reformulation between countries³².

As it may be complex for the food industry to comply with all of the label changes, given the need to understand the exclusions, exceptions, application and interpretation of all of these changes, clear technical interpretation and guidance documents must be made available, both to industry and CFIA inspectors. Furthermore, as most of these label changes are not related to food safety, technical labelling non-compliance should be treated differently than safety infractions. The CFIA should engage in a compliance promotion strategy that emphasizes education in the initial years following the compliance date to allow industry and inspectors to develop a full understanding of the requirements without penalty.

Finally, industry needs consistency in between inspectors. A mechanism needs to be put in place by the CFIA to allow resolution of complex issues of policy or regulatory

³² From AAFC's 2012 sodium webcast slides

interpretation disputes at speed of business without having to ultimately appeal to CFIA senior management.

Recommendation 8:

Shift the coming into-force and compliance enforcement to 5 years after the last label change is finalized.

Recommendation 9:

Accelerate the availability of technical guidance documents and information and training sessions.

Recommendation 10:

Implement an “education first” compliance promotion strategy.

Annex – Working Group members

Food Industry Roundtable Regulatory Initiatives Working Group members:

Chair:

- Sylvie Cloutier, CEO, Conseil de la Transformation Alimentaire du Québec

Industry

- Etienne Caya, Technical Director, Baxters Canada Inc.
- Claire Guillet, Regulatory Affairs, Baxters Canada Inc.
- Alberta Clapp, Director of R&D, ConAgra
- Peter Luik, President, Dare Foods Limited
- Carmela Sebryany-Harris, President, Upper Crust
- Dominique Bohec, Vice-President Sales and Marketing, La Petite Bretonne Inc.
- Pierre Turner, VP Quality, R&D, Sustainability, Lassonde Industries
- Rory McAlpine, Senior Vice President, Government and Industry Relations, Maple Leaf Foods Inc.
- Fiona Wallace, Leader, Regulatory and Scientific Affairs, Nestle Canada Inc.

Associations

- Jackie Crichton, Chair, Dairy Regulatory/Technical Committee, Dairy Processors Association of Canada
- Joslyn Higginson, Vice President, Public & Regulatory Affairs, Food and Consumer Products of Canada
