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April 26, 2018

Re: Comments on front-of-pack nutrition labelling proposal published Feb 10, 2018 in Canada Gazette Part I, Vol. 152, No. 6

Dear Mr. Rodrigue,

Please consider these comments on Health Canada's proposed front-of-pack nutrition labelling.

1. Proposed high-nutrient notices could be informative counter-points to many one-sided, typically misleading nutrient marketing claims that will still be permitted on labels.

Requiring manufacturers to post high-sodium, high-saturated-fat, and high-sugar notices on foods that contain more than 15% of the Daily Values of those nutrients could create informative counter-points to nutrition marketing claims that often appear on packages of foods that are not very nutritious overall, claims that will continue largely unabated after the proposed regulations come into effect. For instance, sugary breakfast cereals often do boast the presence of vitamins and minerals and salty luncheon meats often tout the absence of fats. These and similar marketing claims will still be permitted under the proposal. (Recent refinements to the approach to breakfast cereals and other products with small serving sizes like jam will, fortunately, ensure that they are not excused from displaying high-sugar notices.)

2. Emphasizing only three nutrients (sodium, saturated fat, and sugar) ignores the causes of 80% of diet-related disease—e.g., inadequate whole grains, fruits, vegetables, fibre and polyunsaturated fat—continuing to provide fragmented and confusing nutrition guidance.

Too much sodium, saturated fat, and total sugars is responsible for less than one-fifth of the nutrition-related disease and deaths that undermine the health of Canadians, hamstrings economic productivity, and increases the costs of healthcare and social safety nets (including pharmacare). Also, the approach to label sodium—a major risk factor for death—will confuse consumers and frustrate the federal government's 2015 [election platform promise to “bring in tougher regulations to...reduce salt in processed foods.”](#) according to the (since 2012) *voluntary* sodium-reduction targets.

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In creating a front-of pack nutrition labelling regime that stresses these three nutrients, and completely ignores the harm caused by low intake of fruit, vegetables, whole grains, nuts, legumes, poly-unsaturated fat, fibre will distract Canadians from many dietary changes with greater potential to improve their healthy life expectancy. These three nutrients can be measured by consumers and law-makers because current regulations require manufacturers to state the amounts of them in the Nutrition Facts table on the back or side of most food packages. Canadian Food Inspection Agency (CFIA) enforcement policy has long been that “In principle, any emphasis regarding the presence of an ingredient, component or substance should be accompanied by a statement regarding the amount of that ingredient, component or substance present in the food.”¹ However, manufacturers rarely provide such information and CFIA has likely never enforced the policy with fines. Last month, [CFIA’s “What We Heard Report” of its Food Label Modernization consultation noted that 94% of respondents supported a proposal to “require the percentage of any ingredient highlighted through words or pictures on a food label or advertisement to be declared in the ingredient list.”](#) However, many industry contributors opposed such labelling or requested exemptions. If the CFIA proposal is implemented in the same suite of front-of-pack nutrition labelling reforms, they could mandate disclosure of facts that would be used to determine comprehensive nutrition scores that we advocate.

Dietary Risks Factors (2016)	Lost Disability Adjusted Life Years (DALYs)	Attributable share risk of illness and death	Connection of Health Canada priorities for front-of-pack nutrition labelling to estimated risks
All Dietary Risks Combined	825,558		
Diet low in whole grains	251,643		
Diet low in nuts and seeds	173,186		
Diet high in sodium	147,781	12%	<i>Sodium is a priority nutrient to reduce risk, but the 2,300 mg Daily Value for sodium undermines Health Canada's own advice for adults to aim for 1,300-1,500 mg per day and systematically understates the saltiness of the Canadian food supply by 1/3 to 1/2 for label readers.</i>
Diet low in fruits	131,138		
Diet low in vegetables	98,678		
Diet low in fiber	68,343		
Diet low in seafood omega-3 fatty acids	59,585		
Diet low in polyunsaturated fatty acids	59,335	5%	<i>Health Canada's focus on saturated fat ignores polyunsaturated fat, though the health benefit of reducing saturated fats only comes from replacing them with polyunsaturated fats, according to the World Health Organization and Global Burden of Disease project.</i>
Diet high in processed meat	58,014		
Diet high in trans fatty acids	50,079		
Diet low in calcium	27,845		
Diet low in milk	19,696		
Diet high in red meat	17,495		
Diet low in legumes	13,185		
Diet high in sugar-sweetened beverages	7,322	2%	<i>The harm of sugar from all sources must be less than triple that of pop alone, but Health Canada's labelling approach understates amounts of sugar by using a 100-gram Daily Value instead of the 25-gram target for free (mostly added) sugars recommended by the World Health Organization, UK government, and Canadian Heart and Stroke.</i>

** Using single thresholds for warnings for all 3 nutrients is a weak incentive to reformulate only products that contain only slightly more than the 15% DV cut-off.*

Two key figures in the development of nutrition labelling have stressed the importance of taking a more comprehensive approach to rating the healthfulness of foods: former head of the U.S. Food and Drug Administration (FDA, 1990-1997) physician/lawyer David Kessler, and University of Oxford Professor Mike Rayner.

Dr. Kessler wrote in, arguably, the world's most influential medical journal, the *New England Journal of Medicine*, that a future complement to Nutrition Facts Tables should: “consider a product's overall nutritional value....[and] encourage consumers to purchase food rich in the fruits, vegetables, and whole grains...the Institute of Medicine and FDA have worked together in the past to develop some tough front-of-package proposals, but these efforts stalled after a self-protective industry offered a paler voluntary labeling strategy...”²

Likewise, Professor Rayner is a member of *Food for Life Report's* Expert Advisory Board, the father of British nutritional “traffic light” labelling for packaged foods, and the commissioned author of government nutrition eligibility criteria for foods allowed to be advertised to children in British private television. This year, he and his colleagues found “no significant association between consumption of less-healthy food (as classified by the FSA-Ofcom model) and [cardiovascular disease]” even though the model considered more factors than Health Canada's labelling proposal: saturated fat, total sugar, sodium, but also nonsoluble fibre; protein, fruits, vegetables, and nuts. They observed that the model “published in 2004...may misclassify some foods because...[t]he model also fails to discriminate between some healthy and less-healthy grains, e.g., between brown and white rice or between wholemeal and white bread...We note the FSA-Ofcom model is presently being reviewed in light of revised dietary guidelines on sugar intake.”³ According to 2016 estimates of the Global Burden of Disease project, the insufficient consumption of whole grains (and, correspondingly the amount of refined grains) is the biggest contributor to nutrition-related disease (see chart above).

3. Health Canada must confirm that the proposed nutrient notification system with its five-year phase-in period and 10-year benefit analysis period will not lock-in this approach for 15 years, nearly four Parliaments.

The proposal is to become mandatory December 2022, subject to whatever further delays the CFIA Food Label Modernization proposals related to percentage-ingredient declarations, etc. may involve. Also, the health benefits that Health Canada predicts will accrue from reforms to Nutrition Facts and the front-of-pack high-nutrient notices were calculated to accumulate over the subsequent decade. Given the foreseeable limitations of this three-nutrient approach, Health Canada should *not* give assurances to the food industry that these reforms will be locked-in for 15 years. Current Nutrition Facts regulations have been, in retrospect, locked-in for 20 years: December 2002 to December 2022.

4. Health Canada must appoint a panel of experts, free of conflicts of interest, to design an effective comprehensive nutrition scoring scheme to be mandated on food labels within three years, based partly on quantitative disclosures about ingredients that have been recommended in the CFIA Food Label Modernization consultation.

To effectively promote better public health nutrition in the coming years, Health Canada must convene an expert advisory panel without commercial conflicts of interest to advise it on an algorithm for rating foods nutritionally.

The Centre for Health Science and Law has been fine-tuning and applying a nutrition rating algorithm using food-based risk estimates for Canada calculated by the Institute for Health Metrics

and Evaluation's Global Burden of Disease project (which marries expert distillations of the scientific literature about the relationship between diet and disease and Statistics Canada food consumption and health outcome estimates). We have been applying and reporting our food ratings to breakfast cereal, yogurt, lasagna, pasta sauce, baked beans, edible oils, and other foods in our bi-monthly magazine, *Food for Life Report*.

As noted in the *Canada Gazette* notice's Regulatory Impact Assessment, front-of-pack nutrition labelling schemes that operate in various countries sometimes apply secret, proprietary algorithms or are voluntary in nature (and therefore rarely used on labels of products that would feature scores less favourable than shoppers assume). Our proposal, a possible starting point for such expert consideration, is open-source and available to thousands of current subscribers and anyone for the nominal price of the magazine at www.foodforlifereport.ca

We have already shared our views about how best to improve nutrition labelling in Canada with MPs, Health Canada officials, Canadian Food Inspection Agency Officials, and the United Nations Codex Committee on Food Labelling⁴ (which the Government of Canada chairs and hosts), and most recently with colleagues in the scientific literature through the *Canadian Journal of Public Health*.⁵

$$\begin{aligned}
 & + \sum_{\substack{n = \text{whole grains,} \\ \text{nuts and seeds,} \\ \text{fruits,} \\ \text{vegetables,} \\ \text{PUFA, omega-3 oils,} \\ \text{legumes,} \\ \text{calcium, milk}}} \left(\frac{\text{no. of deaths preventable by consuming optimum intake}}{\text{amount in the food}} * \frac{\text{optimum intake}}{\text{optimum intake}} \right) \\
 & = \\
 & - \sum_{\substack{n = \text{sodium,} \\ \text{processed meat,} \\ \text{saturated fat,} \\ \text{trans fat,} \\ \text{free sugars,} \\ \text{red meat, etc.}}} \left(\frac{\text{no. of deaths caused by consuming current intake}}{\text{amount in the food}} * \frac{\text{average current intake}}{\text{average current intake}} \right) \\
 & \hline
 & 100
 \end{aligned}$$

We have explained a more comprehensive approach to FOP nutrition labelling, in the greatest detail, most recently in issue #3 of *Food for Life Report* published in February 2018. Here is an abridged version of the comparison of the comprehensive CHSL's approach, three-nutrient Health Canada approach to five others used in Canada, the United Kingdom, Lithuania, Australia, and Chile.

Sample Foods	Australia Healthy Stars	Canada Loblaws Guiding Stars	Chile Stop Signs	Nordic/Lithuania Keyhole	United Kingdom Traffic Lights	Health Canada's proposed mandatory "high-in" notices (for sodium, sugar, and calculated fat)	CHSL NUTRITION SCORES (based on Global Burden of Disease Canadian estimates)
Dry Roasted Salted Peanuts (per small 20.5 g serving)		no guidance on shelf			Fat: Red, Sat: Red, Sugar: Yellow, Salt: Yellow	no guidance on label	+101
Frozen Blueberries (per 155 g)			no guidance on label		Fat: Yellow, Sat: Green, Sugar: Yellow, Salt: Green	no guidance on label	+49
Unsalted Whole Grain Rice (195 g cooked = 6 g whole grain)			no guidance on label		Fat: Yellow, Sat: Green, Sugar: Yellow, Salt: Green	no guidance on label	+21
Oatmeal (28 g serving yields approx. 16 grams of whole grain, ref. the Grain Council)					Fat: Yellow, Sat: Green, Sugar: Yellow, Salt: Green	no guidance on label	+17
1% Chocolate Milk (per 240 mL)		no guidance on shelf		no guidance on label	Fat: Green, Sat: Green, Sugar: Yellow, Salt: Green	High in / Elevated on Sugars / Sucrose	+2
White Rice (per 125 g)			no guidance on label	no guidance on label	Fat: Green, Sat: Green, Sugar: Green, Salt: Green	no guidance on label	+2
Processed Red Pepper Tomato Pasta Sauce (32% vegetables, 125 mL)		no guidance on shelf	no guidance on label	no guidance on label	Fat: Yellow, Sat: Green, Sugar: Yellow, Salt: Green	no guidance on label	+1
Diet Coke (per 355 mL)		no guidance on shelf	no guidance on label	no guidance on label	Fat: Green, Sat: Green, Sugar: Green, Salt: Green	no guidance on label	-1
Medium Ground Beef (per 90 g)		no guidance on shelf		no guidance on label	Fat: Red, Sat: Red, Sugar: Green, Salt: Green	no guidance on label (exempt)	-17
Corned Beef (per 56 g)		no guidance on shelf		no guidance on label	Fat: Yellow, Sat: Red, Sugar: Green, Salt: Red	High in / Elevated on Sodium	-94

5. Overbroad exemptions could make a mockery of proposed nutrient warnings and seem like pandering to powerful industries.

The Health Canada proposal expressly exempts products like:

- steaks, pork chops, and other fresh and frozen (not ground) meat, and 3.25%MF homogenized milk from high-saturated-fat notices,
- honey, sugar and maple syrup from high-sugar notices, and
- canned vegetables from high-sodium warnings.

However, in the last case, such products would be exempt anyway, an illustration of the limited value of using a single-threshold approach to all notices (345 mg of sodium for a serving of vegetables).

6. Mandated notice format should include red notice.

Our main argument⁶ is that Health Canada should develop comprehensive public-health-focussed nutrition labelling in a process that is expert-driven and excludes parties with financial conflicts of interest. However, as among the symbols under consideration for the three-nutrient proposal, the [notice option that includes red](#) is most likely to attract the attention of consumers, so we strongly recommend that option be authorized exclusively (with bilingual variants only):



There should *not* be a variety of Health Canada endorsed formats compounding the confusion caused by the variety of FOP schemes now appearing on one-fifth of foods and various nutrient claims which Health Canada will continue to permit and presently appear on half of products, including many of the least nutritious foods.

While the greatest public health impact of front-of-pack nutrition labelling must begin with an algorithm that considers amounts of all the major contributors to health—not 2-3 of the top 15 contributors—the federal government can at least use this regulation-making exercise to work-through the mechanics of mandating colour specification in nutrition labelling.

Respectfully submitted,

Bill Jeffery, BA, LLB, Executive Director
nonprofit Centre for Health Science and Law and
Editor, *Food for Life Report*

Endnotes

¹ Canadian Food Inspection Agency. Composition and Quality Claims, Highlighted Ingredient Claims Available at: <http://www.inspection.gc.ca/food/labelling/food-labelling-for-industry/composition-and-quality-claims/eng/1391025998183/1391026062752?chap=2#s6c2>.

² **Kessler, D.** Toward More Comprehensive Food Labeling. *New England Journal of Medicine* 371;3 July 17, 2014, 193-5. Available at: <http://www.nejm.org/doi/full/10.1056/NEJMp1402971>

³ Mytton OT, Forouhi NG, Scarborough P, Lentjes M, Luben R, **Rayner, M**, Khaw KT, Wareham NJ, Monsivais P. Association between intake of less-healthy foods defined by the United Kingdom's nutrient profile model and cardiovascular disease: A population-based cohort study. *Public Library of Science and Medicine*. 2018 Jan 4;15(1). See: <http://journals.plos.org/plosmedicine/article/file?id=10.1371/journal.pmed.1002484&type=printable>

⁴ I have participated in the standard setting negotiations at this body on behalf of the International Association of Consumer Food Organization (IACFO) since 1999, notably including discussions that culminated in a global standard for mandatory back-of-pack nutrition labelling in 2012, and spurred the commencement of negotiations on international guidance on front-of-pack nutrition labelling (launched in 2016/2017).

⁵ Raine KD, Ferdinands AR, Atkey K, Hobin, E, **Jeffery B**, Nykiforuk CIJ, Vanderlee L, Vogel E, von Tigerstrom B. Policy Recommendations for Front-of-Package, Shelf, and Menu Labelling in Canada: Moving Towards Consensus. *Canadian Journal of Public Health* 2017;108(4):e409–e413 Available at: <http://journal.cpha.ca/index.php/cjph/article/view/6076/3682> and issue #3 .

⁶ The Regulatory Impact Assessment accompanying the proposal incorrectly predicts that label changes will be inflationary (at pp. 324-5) even though the costs are one-time expenses, not repeated annually during the five-year phase-in or 10-year benefit period. This is an analytical error that does not comport with analysis at p. 315.