



Standing Committee on Agriculture and Agri-Food
Sixth Floor, 131 Queen Street
House of Commons
Ottawa ON K1A 0A6
By email to: AGRI@parl.gc.ca and to Kody.Blois@parl.gc.ca

March 27, 2023

Re: Committee study on food price inflation

Dear Chair Blois:

Please consider the attached comments on behalf of the Centre for Health Science and Law in connection with the Committee's study on food price inflation during the COVID-19 pandemic.

The comments consist of some fact-checking of statements made by previous witnesses and some recommendations to address price-related law and policy reforms, especially to better protect the health of Canadian consumers.

Respectfully submitted,

Bill Jeffery, BA, LLB, Executive Director and General (Legal) Counsel
Centre for Health Science and Law

cc. Anthony Durocher (Deputy Commissioner, Competition Promotion Branch, Competition Bureau) at: anthony.durocher@cb-bc.gc.ca
Ann Salvatore (Deputy Commissioner, Cartels Directorate, Competition Bureau at: ann.salvatore@cb-bc.gc.ca

Attached:

1. Quarterly Percent Net Income by Food and Beverage Stores, 2013-2023, Statistics Canada. Table 33-10-0225-01,
2. Annual average price and annual change in retail prices for 110 categories of food products, January 2019-2023. Statistics Canada Table 18-10-0245-01.
3. Farms classified by total farm area, Census of Agriculture. 2021. Statistics Canada. Table 32-10-0232-01



Comments of the
Centre for Health Science and Law
Concerning the study on food inflation by the
House of Commons Standing Committee on Agriculture and Agri-food
House of Commons
Parliament Buildings
Ottawa, Canada
March 27, 2023

I am a food and nutrition lawyer and Executive Director of the Centre for Health Science and Law.¹ I have advocated food- and nutrition-related public health law reforms based on the best available scientific evidence for public interest organizations in Canada and internationally for 26 years.

I would like to offer the following comments, on behalf of the Centre for Health Science and Law, in connection with the Committee's study on food price inflation in the form of some fact-checking and important context for some testimony by some previous witnesses as well as recommendations for directly addressing the risk of inflation in the future.

I note that, of the first 37 witnesses, only two provided written briefs and, in my view, the supplementary information provided by two witnesses at the request of the Committee raised more questions than they answered.

A. FACT-CHECKING

1. **Establishing whether inflation was due to a rise in the price of cost inputs or price gouging that was facilitated by coordination among competitors (i.e., unlawful price-fixing) must begin with sharing plenty of net income data points before and during the COVID-19 pandemic.** Grocery retailers repeatedly denied price-fixing, but did not volunteer enough price data over time to exculpate themselves. They have persistently obfuscated price time-trend data like, for example, Loblaw claiming that its net revenue ranged from “2% to 3% to 4%.” Likewise, imprecise references to time comparisons, explaining the reasons why producers' and manufacturers' prices rose and offering multiple rationales for price rises by producers and manufacturers while deflecting attention from retailers' decisions and supplementary inflation. According to Statistics Canada data, net revenue as a percentage of total revenue exceeded 2.5% only 15 times in the past 40 quarters (i.e., past decade), 11 times of which were after the beginning of COVID-19.

2. **Grocery code of conduct is not a remedy for food price inflation.** Nearly all of the industry witnesses and some of the government witnesses advocated a mandatory “code-of-conduct” that is currently being negotiated behind-closed doors by industry with some government officials. This approach is problematic for several important reasons:

a) **The proposed “code of conduct” is (purportedly) *not* designed to curb food price inflation.** All witnesses conceded that the draft code of conduct does not address price and, as such, could at best have only an indirect impact on food prices. The proposed draft code is actually designed to establish rules concerning contracts between retailers and suppliers (farmers and food manufacturers) to reduce the extent to which the retail oligopoly can abuse its dominant position in negating fees and prices for foods. Potentially problematic financial penalties reportedly include shelf placement fees, “fines,” obligatory charitable donations, other charges to vendors, and long delays (sometimes months) in paying for procured foods (i.e., long after the food have been resold to consumers). The result of a code of conduct could even be a rise in consumer food prices if the weaker suppliers are more successful at increasing their share of profits than reducing the retailers’ share.

b) **The “code of conduct” could probably not squarely address price due to a competition law enacted by Parliament.** Industry is prohibited from controlling prices by agreement by sections [45 \(price fixing\)](#) and [76 \(price maintenance\)](#) of the federal *Competition Act*. A 2014 publication of the Competition Bureau, entitled *Trade Associations and the Competition Act*, lists the following “Trade Association Dos and Don’ts”:

- *Don’t impose sanctions or discriminate against members that do not adhere to rules with respect to competitively important considerations;*
- *Don’t use unreasonable disciplinary measures to coerce members to provide information or data for information sharing purposes;*
- *Do ensure open consultations in the development of any rules.²*

However, one industry witness, who is participating in the code negotiations, seemed to be under the impression that the only obstacle to the code of conduct directly addressing price is the confidentiality of agreements between food companies. One of the two Deputy Commissioners of Competition that testified before this committee stated:

“I don’t think we have a view, because we haven’t studied the issue of a code of conduct in depth... We are certainly familiar with the issues that have led to the code of conduct, but in terms of the debate as to whether it should be voluntary or [formal] , that’s not a specific issue that we’ve studied.”

c) **The code of conduct was developed by an opaque process.** Admitting the public to offer perspectives on a code of conduct after an agreement has been struck among some multi-billion-dollar companies and multi-million- and multi-billion-dollar companies seeking to

* The transcript states “funneled” which the witness confirmed by email was a mis-transcription of the word “formal.”

preserve or obtain a bigger share of the food dollar seems destined to be unsuccessful in protecting consumer, health, or environmental protection objectives.

- d) **Reputational risk and moral hazard of the federal government convening binding industry cooperation that is not through a public statute.** There is a moral hazard of allowing a handful of companies to internally police a code-of-conduct of their own making that governs matters related to price. Consider the problems that could arise if, for example, Metro sought to impose fines against Loblaw for paying its suppliers too little (or too much). Also, code of conduct meetings and enforcement activities could risk serving as a forum for price-fixing/maintenance decisions with the imprimatur of the federal government's Innovation, Science and Economic Development Canada (which has been co-leading the negotiations and is a branch of the same ministry that houses the Commissioner of Competition which enforces competition rules with the Office of Public Prosecution.) Companies accused of price-fixing who participate in activities hosted and supported by the federal government might argue that they were led to believe that such activities were acceptable to the regulator.
 - e) **The code of conduct could become a government-endorsed mechanism for price-fixing or for inflating prices while it is equalizing the profitability of small and large players in the food system.** Generating equity among food industry players might be the right thing to do for companies, but do not pretend that it is a solution to protect consumers from inflation. It could have the effect of preserving what seems to be artificially inflated prices to the benefit of farmers and small food system players on the backs of consumers.
3. **De-indexing alcohol excise taxes from inflation is foreseeably and quantifiably harmful.** One of the restaurant industry witnesses recommended “stepping back on the alcohol excise tax escalator.” A few years ago, the federal government indexed to inflation these taxes (which are based on the number of litres sold). De-indexing them from inflation would systematically dwindle them and the impact on consumption. Implementing a policy that makes alcohol cheaper will foreseeably increase the number of deaths caused by excess alcohol consumption. University of Victoria's Canadian Institute for Substance Use Research estimate that 15,000 Canadians die as a result of alcohol-related injuries and illness annually, and in 2017, indexing alcohol taxes to inflation was predicted to prevent 329 deaths per year.³
 4. **Setting the record straight about the average farm size.** The Fruit and Vegetable Growers of Canada repeated an estimate of the impact of the greenhouse gas pricing by citing estimates that a 5,000-acre farm might have to pay \$150,000 in incremental carbon-price fuel tax. While the purpose of a tax on greenhouse gas emissions is sound and exemptions for greenhouse operations and rebates for farmers are baked into the design of the tax and the subsequent *Budget Implementation Act, C-8* (to offset the regressive effects), the average size of planted fruit and vegetable farms/orchards is 27 acres, far less than 5,000 acres.⁴ In 2021, only approximately 3% of Canadian farms were more than 5,000 acres.⁵

5. **Fair trade must be considered in relation to foreign competition and a foreign-sourced workforce.** While farmers raise a valid point about the challenges of competing with imported products that may or may not adhere to carbon prices, they also take advantage of foreign temporary workers to harvest Canadian crops. The witness from the Union des producteurs Agricole testified that one-third of the Canadian agricultural labour force comes from temporary foreign agricultural workers. (According to Statistics Canada, temporary foreign workers comprise one-quarter of the agricultural workforce and 10% of the food manufacturing workforce because they perform work at lower wages than are acceptable to Canadian workers.⁶) Asking for continued government support for hiring foreign workers and more restrictions on imports of food from such countries raises some international equity issues. Likewise, admonishing other countries for having weak labour standards needs to be reconciled with the fact that Canadian farmers use more pesticides per hectare (2.05 kg), on average, than most other world regions (Africa: 0.49 kg; Asia: 1.16 kg, Europe: 1.64 kg) with considerable variability among countries and crops, though many South American and Caribbean countries and some European and Asian countries are heavy pesticide users.⁷
6. **Selling food is not inherently ethical.** Dr. Charlebois expressed the opinion that “selling food, a necessity of life, is inherently ethical.” Obviously, price-fixing, whenever that occurs, is both unethical and illegal and price gouging for necessities of life is unethical.
7. **More data points on the profitability of retail food sales are needed to assess relevance to COVID-19.** The supplementary data provided to the Committee by Loblaw Companies compares rises in same-store sales between times *after* food prices had completed the bulk of their climb in the summer of 2021. (See attached spreadsheet based on Statistics Canada data available at: <https://tinyurl.com/StatCan-food-prices-2019-2023>)
8. **Freezing prices on “No-Name” brand products is a very small measure in a large retail food system.** Loblaw claimed that it had frozen prices on 1,500 of its “No-Name” products, however, it should be noted that Loblaw also carries a store brand called President’s Choice with more than 12,000 products.⁸ A full-size grocery store carries approximately 40,000 food and non-food items,⁹ and as of 2017, there were approximately 140,000 prepackaged foods (distinct stock-keeping units, SKUs) in the national marketplace, not including foods sold loose, such as produce and some bulk items.¹⁰ As such, Loblaw’s decision to freeze prices may have come too late (after the decision to hold hearings by the Committee was announced), governed only about 11% of its private label products, and governed less than 1% of its SKUs.
9. **Metro’s charitable food donations require context.** Metro reported donating 9 million meals for every 2.3 billion they sell—one meal for every 255—however, it was not clear whether and to what extent such donations were actually products purchased by their customers and collected in Metro donation boxes, donated in cash by customers at check (and used to purchase Metro foods), or donated at the point when perishable foods passing their best before date and, as such, unsalable commercially. That is, did food banks essentially serve as free dumping grounds for grocery stores or take credit for the generosity of their customers.

10. **Shopping/delivery charges for groceries might form part of the supplementary retail profits.** Profits of retail food companies delivery services may have compounded food price inflation in ways that were not measured by Statistics Canada data. Consider inviting witnesses to supply information about these profit centres recognising that the consumers and individual shoppers/drivers have even less bargaining power than all of the witnesses you heard so far. CBC's investigative news program Marketplace found evidence of much of the additional payments being absorbed by Instacart and retailer which concluded:

“Loblaws, Costco and Walmart found that shoppers at Loblaws and Costco are paying about 10 per cent more per grocery item beyond the itemized delivery and service fees, as well as missing out on advertised in-store specials and sales at Loblaws...In emails, [Costco and Loblaws told Marketplace](#) that while they set the prices, Instacart keeps all of the profit from pricing differences, in addition to the delivery and service fees.”¹¹

11. **MPs should be mindful of conflict-of-interest if called upon to promote (or oppose) a food supply code-of-code or other measures that could affect their family finances.** At least 10 MPs have investments that give them a financial stake in the outcome and operation of such a code of conduct so should be circumspect about how they engage in these deliberations of the Committee and vote if any resolution comes before Parliament due to conflict-of-interest considerations or *Bill C-234* regarding changes to the rates of taxes on farms.¹²
12. **The direct impact of the war in Ukraine on Canadian food prices should not be over-estimated.** Many of the witnesses implicated the war in Ukraine as inflating Canadian food prices. According to Food and Agriculture Organization Trade Statistics, Canada imported approximate 1.6 grams of food per capita per day from the Ukraine at an import price of approximately one-fifth of one cent per day.¹³ While there are some indirect effects of the war in the Ukraine, the direct effects on consumer prices in Canada must be minuscule; most of our food is imported from the United States and other nearby countries.
13. **Companies investigated for inflationary pricing asking government for more price breaks on bank fees seems like a bold overreach.** Companies called before a Parliamentary committee when suspected of securing record profits from anti-competitive behaviour that ask for preferential rates on bank transaction fees after being evasive about their own financial data seems, at best, like unconvincing advocacy.
14. **The picture of unequal bargaining power is multifaceted but largely favours non-nutritious foods.** Weston (Loblaws) and Couch Tard are the only Canadian food retailers listed in the Global Fortune 500 (Empire/Sobeys, and Metro are not far behind and, of course, the US-based Walmart tops the list (though its sales in Canada remain relatively low compared to the big-three). Only a few grocery store suppliers surpass the big retailers' global sales volumes measured by worldwide sales revenue: Danone, Mondelez International (candy,

crackers and cookies), Coca-Cola, Pepsi-Co, and Nestlé (US\$29 billion to US\$95 billion). The companies with the most leverage on price sell candy, liquid candy, energy drinks, crackers and cookies, and a lot of high-saturated fat and sugar-sweetened dairy products. These are mostly products that worsen the health of Canadians.

15. **Distinguish retail food from pharmaceutical revenue.** Loblaws and Walmart are the only major grocery retailers that also own pharmaceutical retailers, so they benefited from the closure of restaurants and from COVID-19 and other illnesses that flourished during COVID. This was not considered by the Committee.
16. **Front-of-pack nutrition labelling regulations are very unlikely to be responsible for food price inflation.** The implementation of new regulations mandating front-of-pack nutrition labelling do not become binding for nearly three more years into the future and the regulations were not promulgated until June 2022, long after the lion's share of grocery price increases were raised (the implementation deadline is January 1, 2026). Furthermore, in *Canada Gazette Part II*, the government calculated that the total price of FOPNL over the three-year phase-in would lead to a "one-time cost" one-fifth of 1% of sales revenue, i.e., after which such non-inflationary price input could be removed and, therefore, lead to a price reduction.¹⁴
17. **Ruminant animals (such as cattle, sheep and goats) also contribute to greenhouse gas emissions in farming, but are not yet considered in emission-reduction incentives in the way that fossil fuels used in food-related production machinery and transportation and farm fuel taxes are too small to inflate food prices.**

Although farm fuel consumption pricing incentivizes the transition to zero-carbon technologies (and important environmental protection), carbon pricing instituted in the *Greenhouse Gas Pollution Pricing Act* likely plays only a trivial role in inflation.

Agriculture and Agri-food Canada's publication, *An Overview of the Canadian Agriculture and Agri-Food System*, indicates that machinery fuel comprises only 4.6% of farming expenses and "fuel + electricity" comprise 2.5% of food processing expenses, the two sectors of which comprise approximately half each of the total value of the Canadian food systems.¹⁵ As such, for example, a 13% carbon tax per litre of diesel fuel (the highest and peak price)¹⁶ when less than 4% of the retail price of fuel-related input costs would comprise approximately half of 1% of total food prices, and likely much less.

In fact, when it comes to agriculture, a great deal of greenhouse gas emissions are not considered in the price incentives or corrections: GHGs from ruminant animals. The United Nations Intergovernmental Panel on Climate Change concluded that food systems contribute 21–37% of total global greenhouse gas (GHG) emissions—rivalling the energy sector's contribution of 35% in 2010[1]—and that climate change will have important negative impacts on food security. Similarly, the UN Environment Program estimated in 2018 that food systems produce 20% to 35% of greenhouse gas emissions.¹⁷ And, if unchecked, such emissions could rise to approximately 50% by 2050.¹⁸ Likewise, a study published in the prestigious scientific journal *Nature Food* and posted on the Food and Agriculture Organization (FAO) website estimated that 57% of GHG emissions from the food system come from livestock.¹⁹ In an

analysis of the greenhouse gas emissions per kilogram of 94 foods sold in the United Kingdom, Oxford University researchers found that:

- meat and fat from cattle and goats emitted 35-64 kg CO₂e per kg of food;
- pulses (such as lentils) emitted an average of 3.3 kg CO₂e per kg;
- other foods ranged from near-zero to 5 kg CO₂e per kg of food;
- some of those foods would generally be consumed in very small amounts (such as honey, much smaller than 100 grams in a sitting), further underscoring that beef and goat-related foods are much more GHG-emission-intensive than the rest of the food supply.²⁰

Furthermore, a database of the 57,000 multi-ingredient products by rated by nutrition (NutriScore system) and sustainability (greenhouse gas emissions, land use, water stress/toxicity, and eutrophication, e.g., algal blooms) confirmed the primacy of ruminant animals in generation GHGs in food systems.²¹

Finally, the risk of these cattle-related GHGs may be even higher now and in the future. A recent study conducted by researchers at Johns Hopkins University and New York University concluded that the conventional method for calculating methane gas contributions by livestock underestimates its impact on climate in High-Income Countries like Canada and the United States to the extent that true methane contributions of meat and dairy production may be 39% to 90% higher.²²

B. RECOMMENDATIONS TO

- a) **CURB FOOD PRICE INFLATION,**
- b) **HELP CONSUMERS SHOP MORE ECONOMICALLY, AND**
- c) **BETTER DETECT SIGNS OF FOOD PRICE-FIXING IN THE FUTURE.**

1. **Mandate and specify minimum print-size requirements for standard price-per 100 g or mL of foods offered for sale.** Mandate standardized price-per-100 grams (or mL) of shelf-tag labelling for each food offered for sale in print size and colour contrast as large and prominent as the package unit price. All major grocery chains voluntarily provide such pricing, however, it is often too small for many people to read and often such standardized unit pricing is not updated when products are offered at a discount sale price, which might conceal the fact that the sale price is still higher than competing products. For low-income shoppers who are most sensitive to high food prices, standardized unit pricing should be a reliable effective tool.
2. **Align food taxes and refundable Low-Income Credits with public health recommendations.** Shift GST/HST and provincial sales taxes, where applicable, from nutritious foods to junk food in both retail and restaurant settings by amending the definition of “Basic Groceries” in the *Excise Tax Act*. This measure would help ensure that some nutritious foods are more affordable. Currently, for instance, sugar-free club soda is taxed at the same rate at sugary carbonated soft drinks. Likewise, which nutritious prepared vegetable or fruit salads sold in grocery stores are taxable, bacon and packages of six or more

donuts are zero-rated for GST/HST. To optimize the public health impact and neutralize the impact on provincial and federal government budgets, the taxes could be shifted to foods that are currently zero-rated.²³ Food tax policy hasn't changed in decades; should reflect modern dietary guidance, not undermine or be disconnected from it. The [Low-Income GST Tax Credit](#) can also be used to reduce poverty and food insecurity in Canada anytime, not just when low-income Canadians suffer from acute financial stress due to inflation.²⁴

3. **Study the impacts and solutions for volume discounts for food.** Urge the federal government to consult Canadians and experts about the fairness of overcharging consumers for small portions of food. Volume discounts may promote over-consumption of foods with longer shelf lives and disadvantage people with meagre grocery budgets, especially low-income Canadians. The most effective measures to make Canadian society fairer when it comes to food security involve redistribution of income that address poverty directly, such as income tax rates, HST Low-Income Credits, Employment Insurance, Social Assistance and Disability Insurance rates. However, food pricing and taxation law and policy should not undermine those efforts. Likewise, through more health-promoting labelling and advertising regulations, government food procurement (especially for school food programs and hospitals) can help improve public health nutrition.
4. **Direct Statistics Canada to obtain and disclose (or require AC Nielsen to directly disclose) sales price and quantity data to public interest researchers in machine-readable formats, especially in a manner that allows tracking nutritionally delimited food categories.** Require AC Nielsen and retail loyalty plans that collect grocery store sales and price data (i.e., scanner data) to share that data with public health, anti-poverty, environmental protection, and other public interest researchers at no cost to study public interest questions. One of the witnesses, Matthew MacDonald, Assistant Director, Consumer Prices Division, Statistics Canada, noted that:

“Statistics Canada has been committed to further strengthening the consumer price index and other economic indicators by leveraging more timely and higher-quality alternative data sources. With regard to food prices, we are broadly leveraging scanner data, sometimes referred to as point-of-sale transaction data, with millions of food prices received directly from grocery chains across Canada. This approach is considered the gold standard among international statistical organizations in this expenditure category...CPI has transitioned from updating baskets every two years to annual basket updates...agency produces a complementary statistical product called the average prices table...These are average prices that cover many food items for a standard unit of measure.”

Over the years, I have made several recommendations (in a variety of settings) to Statistics Canada to make food price data available in nutritionally delimited food categories to better understand food price elasticities in ways that make sense for health policy. In CHSL's view, it is unconscionable to tax foods that protect human health; those taxes should be shifted to foods that harm health or the environment at current consumption levels. The appendix to this submission includes an excerpt of the “averages prices table” that illustrates the average price increases for generally nutritious foods (highlighted in green), health-

eroding foods (highlighted in red) at typical current consumption levels, and categories of foods that are nutritionally heterogeneous, ambiguous, or relatively neutral.

5. **Make shelf-fees and other contracts between retailers and suppliers transparent.** Arguably analogous to payment of [radio station payola](#) for prominent airplay for music, payment of fees to secure prominent shelf-placement for certain foods promotes their sale and, if those products are less nutritious, such fees can have a calculable harmful effect on public health.
6. **Ensure that Statistics Canada food price data is available for nutrition-delimited categories.** Urge Health Canada to develop criteria to score the overall healthfulness of food (such as a rating scale from 1 to 100) and test techniques for using this information in tandem with unit pricing to help consumers more effectively obtain the best nutrition for their food dollar. Front-of-pack nutrition labelling for foods that are high in saturated fat, sugar and sodium ignores more than four-fifths of the risks of poor nutrition.²⁵ Such tools could be especially valuable in e-commerce because they could be used to inform algorithms for search tools to identify products by nutritionally motivated consumers in ways that are less practicable during in-person shopping. And, in the short term, algorithms for grocery e-commerce sites (or Artificial Intelligence tools) could be used by e-commerce consumers to locate or filter foods that are recommended by the *Canada Food Guide*, without FOP warnings, or are sodium-free, for examples.
7. **The right to food and health are inconsistent with reliance on charitable food banks.** Reliance on food banks is indicative of a failure of government social safety nets and economics. Human rights are meaningless if Canadians need to depend on charity when emergencies of any sort inflate prices for food or otherwise make nutritious food inaccessible to some people.
8. **Urge Statistics Canada to make special data runs free for public interest purposes. They are presently very expensive.** CHSL recently was charged more than \$1,000 for a special data run to help establish the impact of exposure to a toxin on cancer risk however, in the end, the data quality and specificity was insufficient to measure the impact effectively. In a recent Statistics Canada consultation, I wrote:

I run a public interest non-profit organization with a public health mandate. All of my work (law reform and public education) aims to improve the well-being of Canadians. But the cost of purchasing special cross-tabs of existing Statistics Canada data is often prohibitive. Your 2016 report (<https://www150.statcan.gc.ca/n1/en/pub/11-634-x/11-634-x2016001-eng.pdf?st=HAdOcDeF>) shows that [only] 15% of Statistics Canada revenue comes from cost-recovery, but that: 'partners for cost-recovery projects are mostly federal departments, provinces or municipalities, while very few projects are commissioned by the private sector.'

9. **Statistics Canada has not yet availed itself of linking Nielsen scanner data and other food-health data, such as the Canadian Community Health Surveys on Nutrition and the Global Burden of Disease database.** I have had several conversations with data analysis from Statistics Canada, Health Canada, and Agriculture and Agri-food Canada in the past two decades about ensuring the food pricing data is better suited to assess nutrition-relevant price elasticities to better understand the impact of food taxes on health outcomes. This could be done by linking Universal Product Code (UPC) data from foods (i.e., Nielsen price, nutrition, and sales data) that is collected every time consumers' groceries are passed over the scanner. Statistics Canada could also better coordinate with the Seattle-based Institute for Health Metrics and Evaluation for the Canadian estimates in its Global Burden of Disease Database. I am pleased to see that the Agency is considering using scanner data in the future in some way so there may be a recent breakthrough. Nielsen data is notoriously expensive for public interest researchers. The business model is that Nielsen collects the data from grocery scans in exchange for providing it to the retailers to inform their commercial decisions and the right to sell it to manufacturers and all other data users. Consumers are not advised about this use of their purchasing patterns or offered the opportunity to opt-out of sharing the information at the check-out counter. Nor are they told that such data are priced prohibitively high for public health researchers to use for protecting consumers. I understand that the Competition Bureau has conducted one or more investigations of Nielsen to determine whether its monopoly over such data in Canada was being sustained by anti-competitive actions or policies.

The frequency of Statistics collecting nutrition data (especially, the Canadian Community Health Surveys on nutrition conducted in 1972-4, 2004, and 2015) is far too infrequent to assess the impact of public health measures to improve nutrition.

10. **The rumoured proposed code of conduct must be enforced by a government-funded quasi-judicial body, not industry or industry-funded arbitrators.** To avoid becoming a tool for anti-competitive (and therefore illegal) behaviour Canadian retailers and a dozen food processors may need to avoid setting enforceable rules that could be enforced in a manner that interferes with competition.
11. **Seek the Competition Bureau's advice about the legality of the proposed—but as yet publicly unseen—code of conduct before expressing a view about its value.** Seek Competition Bureau advice about the proposed in the draft code of conduct and, of course, consider refraining from expressing a view of the value of a code of conduct before even seeing the draft code.

Endnotes

¹ The Centre for Health Science and Law is a non-profit health advocacy organization that focuses and food and nutrition law reform, the use of the best available evidence, and conflict-of-interest safeguards in research and public-policy making. CHSL accepts no funding from industry except trivial amounts for the few that register to attend our conferences and subscribe to *Food for Life Report* at www.FoodForLifeReport.ca CHSL's main focus is on federal law and policy, but has been active in advocating provincial and municipal reforms and has been active in several international standard-setting and policy-related fora including the Codex Alimentarius Commission (representing several international NGOs), several committees of the UN Human Rights Council (concerning health aspects of draft

treaties concerning the right to development the intersection of business and human rights), the World Health Organization, and governments in Sub Saharan Africa (through UNICEF) and two series of United Nations High-Level Meetings related to prevention (universal health coverage and the prevention and control of non-communicable diseases).

² See: https://publications.gc.ca/collections/collection_2014/ic/Iu54-44-2014-eng.pdf

³ Stockwell T, Churchill S, Sherk A, Sorge J, Gruenewald P. How many alcohol-attributable deaths and hospital admissions could be prevented by alternative pricing and taxation policies? Modelling impacts on alcohol consumption, revenues and related harms in Canada. *Health Promot Chronic Dis Prev Can.* 2020 Jun;40(5-6):153-164. doi: 10.24095/hpcdp.40.5/6.04. PMID: 32529975; PMCID: PMC7367427. Available at: https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7367427/pdf/40_5-6_4.pdf

⁴ See: Fruit & Vegetable Growers of Canada. Field vegetable production in Canada based on 2015 Statistics Canada data. Available at: <https://fvgc.ca/about-us/horticulture-stats/field-vegetable-production-in-canada/>

⁵ Zong Jia Chen and Justin Clark. *Canadian Agriculture at a Glance*. March 16, 2023. Statistics Canada. Ottawa. Available at: <https://www150.statcan.gc.ca/n1/en/pub/96-325-x/2021001/article/00015-eng.pdf?st=hvnKr4FJ>

⁶ Agriculture and agri-food labour statistics. *The Daily*, Monday, June 13, 2022. Available at: <https://www150.statcan.gc.ca/n1/en/daily-quotidien/220613/dq220613d-eng.pdf?st=iocwj810>

⁷ FAO. 2022. *World Food and Agriculture – Statistical Yearbook 2022*. Rome. <https://doi.org/10.4060/cc2211en> at page 139. Available at: <https://www.fao.org/3/cc2211en/cc2211en.pdf>

⁸ See: <https://www.pcoptimum.ca/insiders/en/how-it-works>

⁹ According to a book review of a U.S. book written by a former president of the Canadian Food Inspection Agency: Ronald L. Doering. Canada: Grocery Store: The Untold Story. May 8, 2018. Toronto reviewing Michael Rulhman. *Grocery: The Buying and Selling of Food in America*. (Abrams Press, 2017) Book review available at: <https://www.mondaq.com/canada/food-and-drugs-law/699632/grocery-store-the-untold-story>

¹⁰ Canada Gazette Part II, Vol. 156, No. 15 OTTAWA, Wednesday, July 20, 2022. Statutory Instruments 2022 SOR/2022-168 to 172 and SI/2022-34, pages 3457 to 3837 at page 3597. Available at: <https://www.gazette.gc.ca/rp-pr/p2/2022/2022-07-20/pdf/g2-15615.pdf> According to Statista, grocery stores generally offer a much smaller number of “stock-keeping units” through their digital platforms (less than 10,000) as of March 2021. See: <https://www.statista.com/statistics/1267837/canada-leading-groceries-e-commerce-sites-by-sku/>

¹¹ Tyana Grundig, Anu Singh, Andrew Sampson, and Asha Tomlinson. Hidden markups, missed sales on Instacart leave customers feeling 'ripped off.' CBC Marketplace. January 7, 2022. Available at: <https://www.cbc.ca/news/canada/marketplace-instacart-pricing-1.6306306>

¹² See: https://lop.parl.ca/sites/ParlInfo/default/en_CA/People/parliamentarians

¹³ See: <https://www.fao.org/faostat/en/#data/TM>

¹⁴ Registration SOR/2022-168 June 28, 2022 FOOD AND DRUGS ACT P.C. 2022-844 June 28, 2022 Her Excellency the Governor General in Council, on the recommendation of the Minister of Health, makes the annexed Regulations Amending the Food and Drug Regulations (Nutrition Symbols, Other Labelling Provisions, Vitamin D and Hydrogenated Fats or Oils) under subsection 30(1)1a of the Food and Drugs Act 2b. Regulations Amending the Food and Drug Regulations (Nutrition Symbols, Other Labelling Provisions, Vitamin D and Hydrogenated Fats or Oils) at pages 3601 and 3607 (indicating \$895 million in costs over 3.5 years in sales of approximately \$112 billion. Available at: <https://canadagazette.gc.ca/rp-pr/p2/2022/2022-07-20/pdf/g2-15615.pdf>

¹⁵ Agriculture and Agri-food. *An Overview of the Canadian Agriculture and Agri-Food System*. Ottawa. AAFC. 2017 at pages 70, 71, and 83. Available at: https://publications.gc.ca/collections/collection_2018/aac-aafc/A38-1-1-2017-eng.pdf

¹⁶ See: Environment and Climate Change Canada. *Greenhouse Gas Pollution Pricing Act Annual: Report to Parliament for 2020*. Ottawa. 2022. Table 1 on page 4 of https://publications.gc.ca/collections/collection_2022/eccc/En11-17-2020-eng.pdf

¹⁷ United Nations Environment Programme. *The Emissions Gap Report*. Nairobi; 2018. Available at: <https://wedocs.unep.org/bitstream/handle/20.500.11822/40874/EGR2022.pdf?sequence=1&isAllowed=y>
Intergovernmental Panel on Climate Change. *Energy Systems*. 2020. Available at: https://www.ipcc.ch/site/assets/uploads/2018/02/ipcc_wg3_ar5_chapter_7.pdf ; Intergovernmental Panel on Climate Change (IPCC). *Special Report: Special Report on Climate Change and Land, CH05, Food Security*. Executive Summary. 2019. Available at: <https://www.ipcc.ch/src/cl/chapter/chapter5/>
See generally: <http://exchange.healthscienceandlaw.ca/wp/wp-content/uploads/2022/11/FINAL.Nov3-2022.CHSLBillJeffery.FoodLaw.EcoLabels.pdf>

¹⁸ Springmann M, Clark M, Mason-D’Croz D, et al. Options for keeping the food system within environmental limits. *Nature*. 2018;562(7728):519-525. doi:10.1038/s41586-018-0594-

¹⁹ Xu, X., Sharma, P., Shu, S. et al. Global greenhouse gas emissions from animal-based foods are twice those of plant based foods. *Nature Food* 2, 724–732 (2021). <https://doi.org/10.1038/s43016-021-00358-x> Available at: <https://www.fao.org/3/cb7033en/cb7033en.pdf>

²⁰ Scarborough P, Appleby PN, Mizdrak A, Briggs AD, Travis RC, Bradbury KE, Key TJ. Dietary greenhouse gas emissions of meat-eaters, fish-eaters, vegetarians and vegans in the UK. *Climate Change*. 2014;125(2):179-192. 2014 Jun 11. Available at: https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4372775/pdf/10584_2014_Article_11_69.pdf
Also personal email communication from the principal investigator on April 25, 2022 confirming the greenhouse gas impact of 190 of prepared coffee.

²¹ Clark M, Springmann M, Rayner M, Scarborough P, Hill J, Tilman D, Macdiarmid JI, Fanzo J, Bandy L, Harrington RA. Estimating the environmental impacts of 57,000 food products. *Proc Natl Acad Sci U S A*. 2022 Aug 16;119(33):e2120584119.

²² [7] Matthew N Hayek, Scot M. Miller. Underestimates of methane from intensively-raised animals could undermine goals of sustainable development. *Environmental Research Letters*, 2021; DOI: 10.1088/1748-9326/ac02ef Available at: <https://iopscience.iop.org/article/10.1088/1748-9326/ac02ef/pdf>

²³ Centre for Health Science and Law. Pre-Budget Submission. Pre-budget consultation: Implement Budget 2019 commitment to a national healthy school food program & study the health impact of the HST/GST/PST taxability rules for food and restaurant meals. February 10, 2021. Bill Jeffery, “Taxed and Undertaxed To Death.” in *Food for Life Report*. 2017. Issue 1 at pages 4-6; “Rethinking Food Taxes.” in *Food for Life Report*. 2017. Issue 6 at page 20. Available at: <http://healthscienceandlaw.ca/wp-content/uploads/2021/02/CHSL-Pre-Budget.School-Food-HST-Health.Feb17-2021pdf.pdf> Bill Jeffery. Food Taxes. chapter in *World Encyclopedia of Food Policy*. 2015. Sage. Los Angeles.

²⁴ See: <https://www.canada.ca/en/revenue-agency/services/child-family-benefits/goods-services-tax-harmonized-sales-tax-gst-hst-credit/goods-services-tax-harmonised-sales-tax-credit-payments-chart.html>

²⁵ Centre for Health Science and Law. Public Statement: Front of Pack Nutrition Labelling: The Least Health Canada Could Do. June 30, 2022. Ottawa. See: Available at: http://healthscienceandlaw.ca/wp-content/uploads/2022/06/CHSL-Comment.June30-2022.FOPNL_Announcement.pdf

Monthly average retail prices for selected products, January 2019-2023 (Statistics Canada Table 18-10-0245-01) Available at: https://tinyurl.com/StatCan-food-prices-2019-2023	Inflation from Jan 2019 to Jan 2023	Jan 2019 to Jan 2020	Jan 2020 to Jan 2021	Jan 2021 to Jan 2022	Jan 2022 to Jan 2023
Vegetable oil, 3 litres ⁴	156%	-4%	27%	60%	32%
Limes, unit ³	70%	19%	4%	31%	5%
Canola oil, 3 litres ⁴	69%	-3%	4%	32%	28%
Margarine, 907 grams ⁴	65%	1%	3%	14%	39%
Dry or fresh pasta, 500 grams ⁴	55%	0%	6%	9%	33%
Romaine lettuce, unit ³	48%	7%	9%	-4%	33%
Pears, per kilogram ³	47%	10%	13%	5%	13%
Pasta sauce, 650 millilitres ⁴	43%	0%	6%	7%	26%
Beef striploin cuts, per kilogram ³	41%	1%	11%	19%	5%
Celery, unit ³	41%	-6%	3%	-3%	49%
Salsa, 418 millilitres ⁴	40%	5%	4%	9%	18%
Onions, per kilogram ³	39%	6%	7%	7%	15%
Deodorant, 85 grams ⁴	38%	5%	-1%	16%	14%
Mayonnaise, 890 millilitres ⁴	36%	0%	1%	17%	15%
White sugar, 2 kilograms ⁴	34%	4%	-6%	12%	23%
Brown rice, 900 grams ⁴	34%	8%	4%	6%	12%
Chicken thigh, per kilogram ³	34%	9%	-4%	12%	14%
Butter, 454 grams ³	33%	-6%	6%	7%	24%
Eggs, 1 dozen ³	33%	5%	12%	1%	12%
Canned corn, 341 millilitres ⁴	33%	9%	6%	3%	11%
Flatbread and pita, 500 grams ⁴	32%	1%	4%	-2%	28%
Canned tomatoes, 796 millilitres ⁴	32%	5%	4%	-1%	22%
Canned baked beans, 398 millilitres ⁴	32%	0%	12%	9%	8%
Iceberg lettuce, unit ³	31%	-3%	-3%	-2%	41%
Canned beans and lentils, 540 millilitres ³	30%	3%	6%	4%	15%
Meatless burgers, 226 grams ⁴	30%	9%	15%	2%	2%
Cantaloupe, unit ³	30%	-3%	27%	-2%	8%
Beef rib cuts, per kilogram ³	30%	6%	11%	19%	-7%
Cereal, 400 grams ⁴	30%	-1%	5%	8%	16%
White rice, 2 kilograms ⁴	30%	8%	5%	3%	11%
Canned soup, 284 millilitres ⁴	29%	9%	1%	0%	17%
Beef top sirloin cuts, per kilogram ³	29%	7%	2%	23%	-3%
Canned pear, 398 millilitres ⁴	28%	6%	4%	2%	14%
Beef stewing cuts, per kilogram ³	28%	1%	8%	13%	3%
Frozen french fried potatoes, 750 grams ⁴	28%	3%	4%	4%	15%
Oranges, per kilogram ³	27%	9%	5%	13%	-1%
Salad dressing, 475 millilitres ⁴	27%	-4%	4%	20%	6%
Canned salmon, 213 grams ⁴	27%	18%	7%	-2%	3%
Frozen spinach, 300 grams ⁴	27%	6%	7%	2%	9%
Frozen strawberries, 600 grams ³	26%	0%	1%	9%	14%
Potatoes, per kilogram ³	26%	6%	11%	-3%	11%
Toothpaste, 100 millilitres ⁴	26%	8%	3%	5%	9%
Tea (20 bags) ³	26%	1%	3%	9%	11%
White bread, 675 grams ⁴	26%	1%	1%	4%	19%
Mushrooms, 227 grams ⁴	26%	5%	12%	2%	5%
Dried lentils, 900 grams ⁴	25%	4%	-3%	6%	16%
Pork loin cuts, per kilogram ³	25%	3%	13%	3%	4%
Wieners, 400 grams ⁴	24%	9%	3%	10%	0%
Sweet potatoes, per kilogram ³	23%	12%	0%	-1%	12%
Dry beans and legumes, 900 grams ⁴	23%	3%	-4%	7%	16%
Onions, 1.36 kilograms ⁴	23%	0%	6%	1%	14%
Apples, per kilogram ³	23%	-2%	11%	5%	7%
Infant formula, 900 grams ⁴	23%	-2%	1%	0%	23%
Carrots, 1.36 kilograms ⁴	22%	-1%	12%	-4%	16%
Cream, 1 litre ³	22%	2%	1%	4%	14%
Frozen broccoli, 500 grams ³	22%	-5%	-1%	16%	12%

Olive oil, 1 litre ⁴	22%	-8%	-1%	15%	17%
Pork rib cuts, per kilogram ³	21%	24%	3%	18%	-19%
Broccoli, unit ³	21%	-11%	15%	-5%	24%
Ground beef, per kilogram ³	21%	9%	-1%	13%	0%
Ketchup, 1 litre ⁴	21%	-2%	2%	15%	4%
Roasted or ground coffee, 340 grams ⁴	21%	0%	3%	4%	12%
Canned peach, 398 millilitres ⁴	20%	2%	-2%	4%	15%
Oranges, 1.36 kilograms ^{3,4}	20%	-11%	11%	13%	8%
Shampoo, 400 millilitres ⁴	20%	2%	-1%	11%	7%
Wheat flour, 2.5 kilograms ⁴	19%	-3%	3%	0%	20%
Milk, 4 litres ³	19%	-1%	2%	3%	14%
Grapes, per kilogram ³	19%	0%	-1%	17%	3%
Soy milk, 1.89 litres ⁴	18%	4%	-1%	1%	14%
Apple juice, 2 litres ⁴	17%	2%	-2%	9%	8%
Tofu, 350 grams ⁴	17%	-3%	10%	2%	8%
Milk, 2 litres ³	17%	0%	4%	3%	10%
Yogurt, 500 grams ⁴	17%	-3%	1%	6%	13%
Milk, 1 litre ³	17%	2%	2%	2%	10%
Tomatoes, per kilogram ³	17%	14%	-4%	-11%	19%
Chicken breasts, per kilogram ³	17%	-1%	1%	15%	2%
Peanut butter, 1 kilogram ⁴	17%	1%	1%	0%	15%
Frozen pizza, 390 grams ⁴	16%	-5%	8%	-2%	16%
Hummus, 227 grams ⁴	16%	1%	2%	1%	11%
Nut milk, 1.89 litres ⁴	16%	5%	-2%	-2%	15%
Block cheese, 500 grams ⁴	16%	0%	5%	2%	7%
Crackers and crisp breads, 200 grams ³	15%	-7%	4%	5%	13%
Cookies and sweet biscuits, 300 grams ⁴	15%	-5%	3%	1%	16%
Peanuts, 450 grams ⁴	14%	5%	-4%	4%	8%
Lemons, unit ³	14%	4%	6%	8%	-4%
Shrimp, 300 grams ⁴	12%	1%	-2%	7%	6%
Salmon, per kilogram ³	12%	-6%	-9%	21%	9%
Salad greens, 142 grams ⁴	12%	1%	-1%	3%	10%
Frozen corn, 750 grams ⁴	12%	0%	-6%	18%	0%
Bacon, 500 grams ⁴	12%	-8%	4%	15%	2%
Frozen peas, 750 grams ⁴	12%	1%	-5%	14%	2%
Frozen mixed vegetables, 750 grams ⁴	12%	2%	-4%	14%	0%
Peppers, per kilogram ³	11%	-8%	14%	-6%	14%
Baby food, 128 millilitres ⁴	11%	-1%	1%	2%	9%
Chicken drumsticks, per kilogram ³	11%	-2%	1%	12%	1%
Laundry detergent, 4.43 litres ⁴	11%	-7%	10%	2%	7%
Squash, per kilogram ³	11%	3%	3%	-7%	11%
Orange juice, 2 litres ⁴	10%	2%	3%	4%	0%
Sunflower seeds, 400 grams ⁴	9%	1%	4%	-6%	11%
Frozen green beans, 750 grams ⁴	7%	0%	-5%	10%	3%
Bananas, per kilogram ³	6%	-1%	2%	2%	3%
Avocado, unit ³	6%	2%	-11%	21%	-4%
Cucumber, unit ³	5%	2%	-2%	0%	6%
Potatoes, 4.54 kilograms ³	3%	-6%	-6%	4%	13%
Canned tuna, 170 grams ³	3%	-5%	-1%	6%	4%
Cabbage, per kilogram ³	3%	-10%	4%	-7%	18%
Whole chicken, per kilogram ³	2%	-4%	-6%	13%	0%
Almonds, 200 grams ⁴	0%	2%	-3%	2%	-1%
Strawberries, 454 grams ⁴	-8%	-9%	-5%	9%	-1%
Pork shoulder cuts, per kilogram ³	-9%	8%	-11%	15%	-18%
Unweighted mean price increase	24%	2%	3%	7%	11%
Products & price in dollars	Inflation from Jan 2019 to Jan 2023	Jan 2019 to Jan 2020	Jan 2020 to Jan 2021	Jan 2021 to Jan 2022	Jan 2022 to Jan 2023

Foods highlighted in green are health-protective and under-consumed in Canada.

Foods highlighted in yellow are either nutritionally neutral or nutritionally diverse categories.

Foods highlighted in red are associated increased risk of diet-related disease at levels consumed in Canada

Total farm area distribution	2021
	Number of farms
Total number of farms	189,874
Under 10.00 acres	13,607
10.00 to 69.99 acres	32,001
70.00 to 129.99 acres	23,470
130.00 to 179.99 acres	19,838
180.00 to 239.99 acres	10,365
240.00 to 399.99 acres	21,587
400.00 to 559.99 acres	13,235
560.00 to 759.99 acres	10,338
760.00 to 1,119.99 acres	11,684
1,120.00 to 1,599.99 acres	8,962
1,600.00 to 2,239.99 acres	7,821
2,240.00 to 2,879.99 acres	4,619
2,880.00 to 3,519.99 acres	3,227
3,520.00 acres and over	9,120
Percent farms over 3,520 acres:	5%

[Statistics Canada. Table 32-10-0232-01 Farms classified by total farm area, Census of Agriculture, 2021](https://doi.org/10.25318/3210023201)
 DOI: <https://doi.org/10.25318/3210023201-eng>