Dietitians of Canada Response to Canadian Food Inspection Agency Consultation:

**FOOD LABELLING MODERNIZATION INITIATIVE PHASE III DISCUSSION PAPER AND QUESTIONNAIRE: ENGAGING ON KEY PROPOSALS TO MODERNIZE THE FOOD LABELLING SYSTEM**

**MARCH 14, 2017**

*Note: The following report includes the embedded discussion paper in CFIA’s on-line questionnaire, and the responses provided by Dietitians of Canada (DC) for the various questions. Response was prepared by DC’s Regulatory Affairs Advisory Group.*

In this third phase of consultation, we would like your feedback on our key proposals which include modernizing regulations and establishing a risk based approach to ensuring truthful and not misleading food labelling.

The regulatory proposals presented here represent the culmination of more than three years of study and engagement that brought together consumers, industry, government, health professionals and others. These proposals are guided by principles that focus on outcome based rules, empowered consumers, responsive industry, risk-based intervention and improved compliance. Together we have taken a major stride toward a modern and innovative system, and together we will see the changes through, to the benefit of all.

To understand the issues that we are trying to address, the options we have presented in earlier engagement, and what we heard from stakeholders, it is recommended that you read these documents before completing the questionnaire:

- Phase II Engagement – What We Heard Summary Report
- Discussion Paper for Food Labelling Modernization – Phase II
- Food Labelling Modernization Engagement Summary Report on Key Issues – June 2014
The questionnaire has three parts:

- Demographic information to help us better understand your perspective
- Background on the purpose of food labelling regulations and food compositional standards
- Specific proposals to modernize regulations and establish a new approach for consumer values claims that appear on food labels.

While the Food Labelling Modernization (FLM) initiative will concentrate on the areas within its focus, we will direct any comments or issues that fall outside of this focus to the appropriate government organization, as needed. We will continue to work with Health Canada and other government organizations to align our modernization initiatives. Any possible future recommendations that require regulatory change would follow the normal Canada Gazette process and include further consultations. The CFIA and Health Canada will endeavor to align the coming into force date for label changes.

1. Please select the perspective from which you will be answering the survey.
   Dietitians of Canada - pan-Canadian association of health professionals with food & nutrition expertise

2. Please indicate where you live, or if answering from the perspective of an organization or business, where your organization or business is primarily located.
   Canada - offices across Canada; members in every province and territory

3. If you are part of a business or an organization, how many employees or members does your organization represent? 5000+ employees/members

4. If you are answering from the perspective of an industry or an association, which of the following commodities best represent your areas of interest? Not applicable

5. While not required, please provide us with your contact information so that we may contact you if we have questions or need more details.

   Name: Pat Vanderkooy MSc RD
   Title (if applicable): Public Affairs Manager
   Company or organization (if applicable): Dietitians of Canada
   Email: pat.vanderkooy@dietitians.ca
1.1 A) Date Marking Requirements: Do you support these proposals? Yes

1.1 A i) Date Marking Requirements: Please explain your reasoning.

DC recommends use of one format only. (It is recognized that a single prescriptive format maybe seen as restrictive and may act as a deterrent when not mandatory.) Multiple formats are not in the consumer interest as they can be confusing. A format of ‘all numbers’ can be more confusing for many consumers.

DC recommends that CFIA be consistent with other Government of Canada guidelines that provide consumer information i.e., Health Canada Guidelines for Labelling Drugs. Use ISO format when all components of the date are applicable: YYYYMMDD: 20240331 or 2024-03-31 (better) (This example is in accordance with ISO recommendations, including use of the preferred alphanumeric elements.) For the month, use the following abbreviations (which are compatible with both French and English): JA, FE, MR, AL, MA, JN, JL, AU, SE, OC, NO, DE. The same date format should be used for expiry dates and ‘use by’ dates. We agree with the abbreviations proposed but recognize the need for consumer education.

Enhance readability by:
• Clearly separate expiry dates from lot numbers, to prevent confusion and to prevent their being read in combination as a single piece of information.
• Use inks that will not be easily smeared or rubbed off the product or package
• Ensure that the type size used is large enough to be read.
• Placement on the container may need to be specified as currently it can be hard to find and once found difficult to read.

1.1 A ii) Date Marking Requirements: Do you have any other comments?

DC urges CFIA and Health Canada to establish separate guidelines/regulations for “use by dates” - applicable to foods which are highly perishable (from a microbiological point of view) and most likely to constitute an immediate danger to human health after a short period. For these products, a ‘best before date’ is inappropriate. The ‘use by’ is the date up until which a food may be used safely i.e., consumed, cooked or processed, once it has been stored correctly. After the ‘use by’ date a food should be deemed unsafe and should not be allowed to be sold (see article 14(2) of Regulation EC No. 178/2002. This is a food safety issue and must be addressed. (The EU has had "Use By" dates for approximately 10 years.) "Use by" dates should be required on the labels of deli foods, as is the case in the EU. "Use by" dates are about food safety; "best before" dates are about quality. Until Health Canada and CFIA provide guidance for "Use By" dates that are food safety driven, the alternative of a “packaged on” date is most useful in the above situations.
The development of indicator technologies that address time-temperature integration (TTIs) that can provide the actual fraction of remaining shelf life are under development and, when perfected, will provide consumers with more accurate information on the product safety of highly perishable products as this would identify when a product has been temperature abused. Currently, consumers must rely on the total supply chain to provide proper storage.

Technology enhancement and improvements along the supply chain to monitor temperature handling and storage information could help better gauge true shelf life, and also reduce food waste, particularly with respect to fresh produce, including fish and fish products.

1.1 B) Date Marking Criteria for Exemptions: Do you support these proposals? No

1.1 B i) Date Marking Criteria for Exemptions: Please explain your reasoning.

DC recognizes that food properties (e.g., pH, total acidity, water activity, presence of preservatives either natural or added), environmental factors (temperature, relative humidity, gaseous atmosphere), the use of any process designed to kill or retard growth of microorganisms (thermal processing, freezing, packaging), the type of microflora present on the food, and the initial population and the composition of the food (fat and fatty acids, vitamins, anti-oxidants) are all important factors in determining the shelf life of products. Some products do not undergo significant deterioration over time such as rice, and those that are preserved in alcohol. Salt as a preservative and high acidity also lengthen the shelf life of products. DC would support an exemption for ‘best before’ dates requirements on alcohol, vinegar and salt (except for iodized salt).

DC does not agree with the proposal to not require a best before date on all canned and frozen products. The use of best before dates on canned and frozen products has been important for stock rotation and quality assurance. Date marking is particularly important for foods shipped to and sold in remote areas of the country, where there is greater reliance on canned and frozen product. (It is not uncommon for product to exceed ‘best before date’ in small stores in remote, northern areas of Canada.)

Frozen foods deteriorate over time and shelf life may be limited by fat oxidation. While freezing arrests microbial activity, chemical reactions proceed at a much reduced rate, even at recommended storage temperatures. Examples of frozen foods whose storage life is limited by oxidation include fish and meats. A number of different vitamins are sensitive to oxygen including vitamin C (ascorbic acid) and vitamin B (thiamine). There must be more definitive data on the long term implications of deterioration on nutrients, including bioactive components, and on quality indicators, before additional recommendation can be made. Food packaging interaction: Public health food standards limit the concentration of certain metals in all foods. The maximum content of tin in canned foods is 250 mg/kg. Most canned foods are now processed in lacquered cans which substantially reduces the possibility of tin dissolution in the food. However, tin
dissolution from the can is essential in some canned foods which would otherwise be subject to discolouration. Asparagus is one example of such a food. Sufficient tin is therefore left exposed in such canned foods to ensure the expected quality of the food through its nominated storage life without it exceeding the regulatory limit. Not all canned foods are the same.

CODEX Alimentarius Food Labelling Committee Report of the 43rd session (2016) moved discussions about date labelling to step 5. In the appendix to the report, suggested criteria for discussion about the establishment of foods that would not require best before date labelling were included, as follows:

(vii) Notwithstanding 4.7.1 (i) and 4.7.1 (ii), a date mark shall not be required for a food if one or more of the following criteria apply:

1. Where safety is not compromised and quality does not deteriorate
   a. because of the preservative nature of the food is such that it cannot support microbial growth (e.g. alcohol, salt, acidity, low water activity); and/or
   b. under stated storage conditions;
2. Where the deterioration is evident to the consumer;
3. Where the key/organoleptic quality aspects of the food are not lost;
4. Where the food is intended to be consumed within 24 hours of its manufacture.

For example, foods such as:

- fresh fruits and vegetables, including tubers, which have not been peeled, cut or similarly treated;
- wines, liqueur wines, sparkling wines, aromatized wines, fruit wines and sparkling fruit wines;
- alcoholic beverages containing at least 10% alcohol by volume;
- bakers’ or pastry-cooks’ wares which, given the nature of their content, are normally consumed within 24 hours of their manufacture;
- vinegar;
- non-iodized food grade salt;
- non-fortified solid sugars;
- confectionery products consisting of flavoured and/or coloured sugars;
- chewing gum.

In such cases, the “Date of Manufacture” or the “Date of Packaging” may be provided.

For health care professionals and for the consumer, the criteria used to determine which products do not require a best before date is very important. For example: What criteria suggests that consumers should be able to determine that ‘deterioration’ is evident? What steps has CFIA taken to further elaborate on the proposed criteria that were discussed at last year’s CODEX Food Labelling Committee meeting?
Establishing date labelling exemptions is an important consideration to cut down on food waste when products have not deteriorated, but the blanket proposal is unacceptable until the research data is available for interested parties (including DC) to review.

1.1 B ii) Date Marking Criteria for Exemptions: Do you have any other comments?

It is critical to know how best before dates are used in Canada and understood by Canadian consumers. DC recommends that CFIA and Health Canada pay close attention to the research being undertaken in the EU. Supportive guidance is necessary for determining which foods may be exempted and whether there are categories of foods for which no 'best before' date would be in the best interests of consumers and reduce unnecessary food waste. There are new technologies under development that may provide important food safety and quality indicators.

1.2 Legibility and Placement of Information: common name, dealer information, and date marking: Do you support these proposals? No.

1.2 A) Legibility and Placement of Information: common name, dealer information, and date marking: Please explain your reasoning.

CFIA and Health Canada should use the same systems and criteria to define typography.

Legibility: Define legibility in a legal sense so that the regulations can be enforced. Minimum Type Size - The proposal for 1.6 mm minimum size is too small for mandatory information. We note that the minimum size of typography on pesticide labelling is 6 point (2.11 mm) - what is the rationale from CFIA for suggesting 1.6mm for mandatory food labelling information including safety information? Health Canada guidance for labelling drugs and pesticides is a minimum of 6 point (2.11 mm) for key information (any mandatory) information on small labels (as specified in regulations) and larger on larger labels. This same regulation should be applicable as the minimum on food packages.

Placement: the common name must appear in legible size typography with clear contrast, in the same area as the brand name. Dealer information should ideally be located near other required information such as the list of ingredients, nutrition facts table - where it is easy to find.

1.2 A i) Legibility and Placement of Information: Do you have any other comments?

The minimum type/text size outlined in the Canada Gazette December 2016 (1) for nutrition labeling in the list of ingredients on food labels is 6 point regardless of package size. These regulations for type size
requirements for the declaration of ingredients took into account the challenges associated with certain packaging materials, irregular-shaped packages, and printing processes. The type height (based on the lowercase “x”) is the unit of measure. This will ensure a consistent height regardless of the font type used. The required minimum type height is equivalent to 6-point type in sans serif fonts, except when the label carries a NFt with nutrients shown in 8-point type, the required minimum type height is equivalent to 8-point type in sans serif fonts. The title “Ingredients” or “Ingredients:” and the title for any “Contains” statement must be in bold and the same as for the ingredients in the List of Ingredients. Small packages under 100 cm2 have a required minimum height of 6 point (but do not have to start French and English ingredient lists on separate lines). There is a need for consistency for type size across all labeling requirements for health, food and other products sold in Canada. Define and use the point unit in all communication. Point Size A "point" is a unit of measurement for type size. An Anglo-American point is equal to 0.3514598 mm. This has been defined by the Food and Drug Regulations as the reference for point size.

For type size, CFIA should refer to the Health Canada document: Good Label and Package Practices Guide 2016 (2), which is designed as an industry guide for labeling of drugs. The recommendation in that document is for a type size of no less than 6 point for key information, where 6 point is 2.11 mm. This draft Guide has excellent material not only on type size but also on other key typography components. All of these factors must be taken into consideration for the labelling of foods, similar to that for drugs. We recommend a point size 9.5 for minimum size/density to ensure good readability, unless the label is small (<100cm2). In addition to the above text size/ type face requirements, it is essential to include requirements for degree of contrast (>70% and preferably 95% or more), colour juxtaposition, leading (space between the lines) and other typography elements that make text readable. These are well described in the regulations for the List of Ingredients in the recent Canada Gazette 2 (1). Other important research to consider when specifying labelling attributes in regulation include: Metz and Alton Mackey (3) on food labels in Canada, Carter and colleagues (4) and Health Canada’s Label Process Series (5).

References:

Proposal: That all the words in the common name have the same prominence, without any intervening words, pictures, or graphics between them, and that the common name is shown in a type height that is at least half the size as the most prominent information on the main panel, and not less than 1.6 mm.

**1.2 B) Legibility and Placement of Information: Common Name: Do you support these proposals?** Yes

**1.2 B i) Legibility and Placement of Information: Common Name: Please explain your reasoning.**

This proposal is similar to the US legislation that makes the common name a prominent feature on the principle display panel. This change will reduce confusion as to the product. Sometimes the graphics and pictures are such that it is unclear what the product is (i.e. diced tomatoes or diced tomatoes in a product).

**1.2 B ii) Legibility and Placement of Information: Common Name: Do you have any other comments?**

The common name must be on the principle display panel.

All modifiers of the common name should be in the same format with similar contrast and typography. It is essential that modifiers such as ‘product’, ‘flavour’, ‘style’ or ‘type’ are located directly beside the term they are modifying. Contrast levels must be at least 70% and preferably 95%, designated to ensure that the modifiers are as easy to read as the common name. Consumers need this information in order to make informed decisions.

For standardized foods that have been modified, the modifier ‘product’ should not be permitted as the term is meaningless. Neither health care professionals nor consumers can tell from the labelling or packaging of the food item what ingredients have been added/eliminated to take the product out of the standard. In addition, there is no indication on the label about changes in performance characteristics. This is very problematic - lack of knowledge of the changes in product composition could have health implications. Products that do not meet the standards should not be permitted to be labelled in a manner that is misleading.

Allergen labelling: There was general support amongst our members for improving the legibility of allergen-related statements on labels. However, some concerns about space, especially for small packages, were raised. The proposed requirement for precautionary declarations to start on a new line was noted as being inconsistent with the requirement for the “Contains” statement. Health Canada discussed these concerns during the food labelling technical workshop on April 22, 2016. As a result of the feedback received from industry, the regulatory amendments have been adjusted to allow precautionary declarations, when used, to continue on the same line or to start on a new line, regardless of package size.
We do not think this change sufficiently meets the needs of consumers with allergies. Any adjustments requested after Gazette 1 should be checked with other stakeholders. We recommend this change be revisited, since food allergens are a major food safety issue for those who are affected - all precautionary declarations should start on a new line.

1.3 Company Contact Information: Do you support these proposals? Yes

1.3 i) Company Contact Information: Please explain your reasoning.

The proposal to enhance dealer information and bring consistency to the requirements is very positive. It is essential for consumers and dietitians to be able to contact companies directly about their food products. Requiring companies to provide contact information to facilitate communication is welcomed.

1.3 ii) Company Contact Information: Do you have any other comments?

We note the USA regulations, which state: "The label of a food in packaged form shall specify conspicuously the name and place of business of the manufacturer, packer, or distributor. The requirement for declaration of the name of the manufacturer, packer, or distributor shall be deemed to be satisfied, in the case of a corporation, only by the actual corporate name, which may be preceded or followed by the name of the particular division of the corporation. In the case of an individual, partnership, or association, the name under which the business is conducted shall be used. Where the food is not manufactured by the person whose name appears on the label, the name shall be qualified by a phrase that reveals the connection such person has with such food; such as "Manufactured for______", "Distributed by ______", or any other wording that expresses the facts. The statement of the place of business shall include the street address, city, State, (or country if outside the USA) and ZIP code (or mailing code used in countries other than the USA); however, the street address may be omitted if it is shown in a current city directory or telephone directory."

The dealer name and address should be easy to read and easy to find on the label. Left justification is preferable to fully justified or centred text, since it allows spaces between words to remain the same and reduces the need for hyphenation. Shaped text should be avoided. Print in mixed upper and lower case type is easier to read than all capital, italic or condensed versions - so this should be a requirement. Ascenders and descenders in mixed case create space between the lines which allows for ease of reading and legibility.

Additional information could also be made available through QR codes and apps on smart phones (providing all phones can utilize the apps) as well as through interactive monitors in stores. However, this is supplementary to the information on the label, as not all individuals or stores have access to this technology.
1.4 Origin of Imported Food: Do you support these proposals? Yes

1.4 i) Origin of Imported Food: Please explain your reasoning

Consistency is important. DC supports alignment with the CODEX General Standard for Labelling of Prepackaged Foods, which would assist in eliminating confusion.

We support CODEX Alimentarius General Standard for Labelling of Prepackaged Foods standard for Country of Origin:

4.5 COUNTRY OF ORIGIN

4.5.1 The country of origin of the food shall be declared if its omission would mislead or deceive the consumer.

4.5.2 When a food undergoes processing in a second country which changes its nature, the country in which the processing is performed shall be considered to be the country of origin for the purposes of labelling.

1.4 ii) Origin of Imported Food: Do you have any other comments? No

1.5 Key Ingredient Claims: Do you support these proposals? Yes

1.5 i) Key Ingredient Claims: Please explain your reasoning.

DC supports the proposed requirement - requiring the percentage of any ingredient highlighted (through words or pictures) on the label or in advertising to be declared in the ingredient list. Highlighted ingredients often do not accurately represent the percentage of the highlighted ingredient in the product. Some labels imply that the food contains substantial amounts of a desired ingredient which may only be present in small amounts. This proposal addresses this confusion.

DC would fully support the implementation of quantitative ingredient declaration (QUID). DC recommends that quantitative information (percentage by weight) be provided for the first three ingredients, as well as any other ingredient whose presence is emphasized by words or pictures on the label or in advertising.

QUID provides information to facilitate:

1. product comparisons on the basis of quality by informing consumers which product contains the greatest amount of desirable ingredients (whole grains in whole grain cereal, beans in baked beans, juice in drinks made with ‘real juice’, peaches in canned peaches etc.)
2. the selection of healthier food choices by providing information about the percentage of healthful or unhealthful ingredients that a food contains
3. avoidance of economic adulteration by providing information about the amount of water or inferior ingredients in a product;
4. understanding of the contribution of ingredients highlighted in pictures or words on the label (i.e. the amount of cheese in cheese sandwich crackers)
5. the development of higher quality products.

DC also supports the proposed requirement to characterize food ingredients when it is expected that a particular food ingredient is present but the product only contains a small amount of the natural ingredient or an artificial ingredient instead. We welcome the requirement that the label must clearly indicate that the product contains a trivial amount of the food ingredient and will be labelled as a ‘flavoured’ product rather than a product containing the named ingredient.

If the product bears a name or other similarity to another food with a different ingredient composition or consumers normally associate an ingredient or class of ingredients with the food, then the food product should also be subject to the provisions of quantitative ingredient labelling. The highlighting of positive ingredients present in small amounts should be prohibited.

1.5 ii) Key Ingredient Claims: Do you support these proposals? Do you have any other comments?

Features of the label, such as placement, language, punctuation, typography and grammar, influence how consumers interpret label information. Statements on food labels are sometimes qualified. Consumers may be misled if the qualification is in fine print or is placed in a location where consumers are unlikely to notice it.

1.6 Ingredient List Improvements - Class Names: Do you support these proposals? Partially

1.6 i) Ingredient List Improvements - Class Names: Please explain your reasoning.

Further study is required to define Class Names.
Once solution may be to remove the list from the Food and Drug Regulations, and using incorporation by reference for that document. However, there must be a rigorous consultation process in place that requires consultation with all stakeholders (including consumers and food and nutrition professionals) in a meaningful and timely way, before any changes can be made in the future to documents incorporated by reference.
A review of the current specific class names used in Canada, CODEX and USA would be a very useful and important exercise, that should precede a move to incorporate by reference. All stakeholders should be allowed to review the information and assess intended and unintended outcomes of a move to incorporation by reference.
1.6 ii) Ingredient List Improvements - Class Names: Do you have any other comments?

Some class names create consumer confusion and may have significant health implications for selected persons. These should be eliminated and the components be listed in the ingredient list. Examples of such class names include but are not limited to:
- vegetable oil (one or more vegetable fats or oils, except coconut oil, palm oil, palm kernel oil, peanut oil or cocoa butter)
- modified milk ingredients (any of the following in liquid, concentrated, dry, frozen or reconstituted form, namely, calcium-reduced skim milk (obtained by the ion-exchange process), casein, caseinates, cultured milk products, milk serum proteins, ultrafiltered milk, whey, whey butter, whey cream and any other component of milk the chemical state of which has been altered from that in which it is found in milk)
- milk ingredients (any of the following in liquid, concentrated, dry, frozen or reconstituted form, namely, butter, buttermilk, butter oil, milk fat, cream, milk, partly skimmed milk, skim milk and any other component of milk the chemical composition of which has not been altered and that exists in the food in the same chemical state in which it is found in milk).

1.7 A) Food Compositional Standards: Do you support these proposals? No

1.7 A i) Food Compositional Standards: Please explain your reasoning.

Dietitians of Canada is a key stakeholder - we must be at the table for any discussions about the compositional standards of foods.

Dietitians believe food compositional standards are important because they:
- Ensure the nutritional quality and the performance characteristics of the product
- Provide assurance that specific standardized products contain certain ingredients and do not contain other ingredients (or additives), so that these food can be recommended with confidence for clients with special dietary needs, i.e., low in potassium.
- Protect consumers from adulteration of foods with inferior ingredients or fillers and fraud.

Consumers care about food standards because they:
- protect consumers from fraudulent and substandard products.
- ensure the uniformity of quality (including nutritional quality) and guarantee the basic nature of the foods (performance characteristics of the food).
- protect consumers from economic deception, for instance, how much filler can be used to substitute for more valuable ingredients.
- help consumers with special dietary needs to know what they are choosing, and lessen the burden of relying on nutrition labeling and ingredient declaration.
Food standards are also important to food services, because they:

• set the framework for food quality, which allows fairness in competition.
• simplify the development of product specifications, as the content and quality of certain raw materials are already specified in the legislation.

We note that, in the UK, the Department of Defense references CODEX standards of identity for specific food products and categories within its procurement policies to provide a universal standard across the country so that manufacturers would not be confronted with different provincial requirements.

For Enforcement by the Government of Canada, Food Standards are essential to:

• enhance the utilization of resources in ensuring foods labels are truthful and not misleading.
• allow the identity and quality of food products to become “measurable”
• serve as a reference for court cases and the determination whether a violation exists.

For the above reasons, DC recommends a review of process about food composition standards that is structured on basic principles that:

• promote better honesty and fair dealing in the interest of consumers and protect the public,
• allow for technological advances in food production,
• are consistent with international food standards to the extent feasible (some Canadian standards of identity are superior to CODEX and more in line with the US FDA), and
• are clear, simple, and easy to use for both manufacturers and the agencies that enforce compliance with the standards.

1.7 A ii) Food Compositional Standards: Do you have any other comments?

The information contained in the following document is informative and could form the basis for more discussion: Federal Register: May 20, 2005 (Volume 70, Number 97), Food Standards; General Principles and Food Standards Modernization, available at http://www.fsis.usda.gov/OPPDE/rdad/FRPubs/95-051P.htm accessed December 10, 2014 The US FDA (21 CFR 130.10) provides a "general standard of identity" for modified versions of traditional standardized foods. The conditions for such modified versions are listed as follows:

1. Comply with the provisions of the standard for the traditional standardized food except for the deviation described by the nutrient content claim.
2. Not be nutritionally inferior to be traditional standardized food.
3. Possess performance characteristics, such as physical properties, flavor characteristics, functional properties, and shelf life, that are similar to those of the traditional standardized food, unless the label bears a statement informing the consumer of a significant difference in performance characteristics that materially limits the use of the modified food (e.g., "not recommended for baking").
4. Contain a significant amount of any mandatory ingredient required to be present in the traditional standardized food.
5. Contain the same ingredients as permitted in the standard for the traditional standardized food, except that ingredients may be used to improve texture, prevent syneresis, add flavor, extend shelf life, improve appearance, or add sweetness so that the modified food is not inferior in performance characteristics to the traditional standardized food.

The above standards should be a minimum when considering standards of identity or compositional standards of food. Food standards provide a basis for negotiations related to the international harmonization of standards and facilitate international trade. This growing volume of international trade and the establishment of bilateral trade deals demands a global harmonization of food standards. Without a Canadian food standards system, food standards development could shift to international bodies, which may not be sensitive to the Canadian consumer or industry. (If the food standard is different from the requirements in a Codex standard for the same food, Health Canada should specify the reasons for these differences). The absence of food standards could pose a barrier to exports and international markets. Food standards contribute to the Canadian brand.

International alignment/regulatory cooperation: CODEX, ISO and other international standard setting organizations are important. Bilateral and multilateral trade agreements have added another wrinkle. Canada needs an official regulated review process of CODEX standards such as the US 130.6 Review of Codex Alimentarius food standards found at [http://www.ecfr.gov/cgi-bin/text-idx?SID=495c59c5d94f753c9d473204ad4f794d&node=21:2.0.1.1.20.1.1.3&rgn=div8](http://www.ecfr.gov/cgi-bin/text-idx?SID=495c59c5d94f753c9d473204ad4f794d&node=21:2.0.1.1.20.1.1.3&rgn=div8)

1.7 B) Modified Standardized Common Names: Do you support this proposal? Partially

1.7 B i) Modified Standardized Common Names: Please explain your reasoning.

Dietitians must be at the table when discussions related to modifying standardized common names take place. Identity standards including the standardized common name are established to help consumers. The standards also set content requirements for the food product; if the content requirement is not met, the food is considered misbranded. We are in constant contact with consumers and are aware of some of the difficulties that arise when modifications are made, but the consumer is unaware of the implications and the changes in performance characteristics (jam versus spread – jam can safely be left at room temperature; spread grows molds). In some cases there are changes in the nutritional profile (processed cheese versus processed cheese product). In Canada, the definition of ‘whole wheat flour’ is not the whole kernel of the wheat - most consumers do not understand the difference between whole wheat flour (with germ removed) and whole grain whole wheat flour - this is also confusing, especially for consumers who cross the border and also shop in the USA. It is essential to be involved and informed as to the guiding principles and the methodology of reviewing these potential modifications. Sharing the work done by CODEX and the United States with all stakeholders will be helpful.
The use of the standardized name for a non-standardized food should be prohibited. The use of a standardized name with the modifier “product” is meaningless and is misleading. Examples include cream cheese product (for some imitations the word original is also included even though this is a modified product no longer made to the standard of identity), processed cheese product… The use of words often associated with a standardized food for example mayo for mayonnaise-like products is also misleading.

1.7 B ii) Modified Standardized Common Names: Do you have any other comments?

Features of the label such as size, placement, language, punctuation, and grammar also influence how consumers interpret label information. For example, statements on food labels are sometimes qualified. If the qualification is in fine print or is placed in a location where consumers are unlikely to notice it, consumers may be misled.

1.8 Streamlining and Removing Unnecessary Regulations: Do you support these proposals?  Partially

1.8 i) Streamlining and Removing Unnecessary Regulations Please explain your reasoning.

It is important to eliminate duplication in the regulations but essential to ensure that there are no gaps. Regulations to maintain food safety and health and to prevent food fraud must be maintained. Consumers need complete and non-misleading information about the food they are eating. Current regulations should be updated to align with applicable and appropriate international standards.

The examples given by CFIA are not referenced, so it is unclear what this proposal includes. Dietitians of Canada should be one of the key stakeholders consulted on this matter. As an example: Could full QUID labelling address concerns or questions about the amount of lamb in a product called Irish stew? Such information would be useful for streamlining, to provide consumer protection, to verify nutrient composition and to be an indication of quality, unless there were other mechanisms to provide a similar guarantee.

1.8 ii) Streamlining and Removing Unnecessary Regulations: Are there commodity requirements that should be maintained?  Yes

1.8 iii) Streamlining and Removing Unnecessary Regulations: Please explain your reasoning.

There are important criteria within the regulations that ensure information is provided for use by consumers, including information identified as important for medical nutrition therapy, to ensure the selection of products recommended by health professionals. A simple example is cheese, which differs according to the percentage fat and moisture in different products.
1.8 iv) Streamlining and Removing Unnecessary Regulations: Do you have other comments? (none)

1.9 Standard Container Sizes: Do you support these proposals? Yes

1.9 i) Standard Container Sizes: Please explain your reasoning.

It is important that consumers are protected. An assessment of the implications needs to be undertaken.

1.9 ii) Standard Container Sizes: Do you have any other comments? (none)

1.10 Test Market Authorizations: Considering the proposal to restrict the use of TMAs to foods that are new, which of the two definitions for new food do you support?

A food new to Canada (the food has never been imported or sold inter-provincially in Canada by anyone).

1.10 i) Test Market Authorizations: Please explain your reasoning.

There is no need to test a food that has previously been marketed in Canada even if it is new to that company (i.e., that company has not previously imported or sold that food inter-provincially).

1.10 ii) Test Market Authorizations: Do you have any other comments?

The difference between Test Market Authorization (TMA) and Temporary Marketing Authorization Letter (TMAL) is not likely well understood by consumers and could be misinterpreted by health professionals who are not familiar with the difference between the terms, especially if only acronyms are used (TMA vs TMAL).

Footnotes:

1Note - Test Market Authorization (TMA) is not the same as a Temporary Marketing Authorization Letter (TMAL). Temporary Marketing Authorization Letters are issued by Health Canada for non-compliant foods for the purposes of gathering market data that will ultimately inform potential amendments to the Food and Drug Regulations.
2. Proposed Model: Do you support the proposed risk-based approach for food labelling? No

2 i) Proposed Model: Please explain your reasoning.

CFIA is mandated to protect consumers not only from concerns of food safety, but also to protect consumers from misrepresentation of products and food fraud. Both these areas deserve equal attention. CFIA’s food labelling policy must protect consumers from misrepresentation and fraud.

It is important to define the meaning of “MISLEADING COMMUNICATIONS”. Food manufacturers use statements, images, and other representations on food labels to communicate information about a variety of food product characteristics (e.g., the basic nature, identity, composition, quality, origin, method of production, or benefit to health).

These representations can be categorized as either: truthful and non-misleading, or entirely false or truthful but misleading.

- Truthful and non-misleading communications are literally true and do not lead consumers to make incorrect inferences.
- False communications are literally untrue, and lead consumers to make incorrect inferences.
- Truthful but misleading communications are literally true but also lead consumers to make incorrect inferences.

Both the presence and absence of information are relevant to whether labelling is misleading. It is essential to take into account not only statements and other representations that are made or suggested in labelling, but also if the labelling fails to reveal facts critical to representations made about the product or consequences that may result from its use. Full definition is also required for “WHAT FACTORS MAY AFFECT HOW CONSUMERS INTERPRET FOOD LABELS?”

The following characteristics are applicable:

A. Environmental Characteristics

Environmental characteristics such as culture, personal contacts including family, the media, and advertising influence how consumers interpret information on food labels. The influence of culture is particularly important in understanding why consumers in different countries or from different backgrounds interpret identical communications differently. Media and advertising can also influence how consumers interpret food labels especially as it relates to label claims. There is a considerable literature informing how media influences expectations, bias and inferences.

B. Individual Characteristics

Consumers’ demographic characteristics (such as age, sex, or education) as well as their psychological characteristics (such as knowledge, experiences, or beliefs) also influence how they
interpret labelling information. The impact of misleading communications often varies among different segments of a population. Some population segments may be more vulnerable to harmful consequences from misleading communications.

C. Label Characteristics
Features of the label such as size, placement, language, punctuation, and grammar also influence how consumers interpret label information. For example, statements on food labels are sometimes qualified. If the qualification is in fine print or is placed in a location where consumers are unlikely to notice it, consumers may be misled. It is also essential that there is a clear understanding of the types of misleading food labelling: omission of a material fact; confusion-based misleadingness; same attribute misleadingness; different-attribute misleadingness and source-based misleadingness.

DC has concerns about the current approach to the handling of complaints related to misleading labelling and food fraud. The proposed model does not alleviate such concerns, but further compounds them. Misleading food labelling cannot be managed using a “risk-based approach to managing food labelling”. Misleading food labelling is fraud.

Canadian consumers would not be on an “equal footing” in a partnership with industry and government. (There are no consumer interest organizations that receive core funding to provide the kind of input and representation that the proposed model would require.) The proposed model will not provide consumers with more confidence in the accuracy of information on food labels. Consumers currently have little confidence in the response of industry or CFIA to complaints. The government’s food labelling policy should not be based only on health and safety risks.

CFIA needs to focus on developing sound evidence-based criteria for assessing how consumers interpret food label information and support the development of standards for specific components of labelling claims. There is a need to review nutrient content claims and how these are perceived. CFIA may wish to review the work of ISO on ethical labelling especially as it relates to consumer value claims.

CFIA must establish an enforceable workable monitoring and complaints regime. CFIA needs to provide an easy and readily accessible consumer complaints mechanism. It is essential that CFIA have transparent operating procedures for reporting back to consumers. In addition companies found to have deceptive practices should be listed on the CFIA website as part of transparency and good governance. Failure to disclose results of investigations into misrepresentations in food labelling and advertising citing ‘confidentiality’ concerns is not satisfactory or good governance when the complaint is valid. There must be sanctions for misleading or deceptive labelling. “Tracking” complaints is not appropriate. CFIA must investigate complaints and must enforce truthful and not misleading labels and advertising. There must be sanctions for misleading label practices.
DC is concerned that current food labelling regulations are not being adequately enforced by CFIA, even when complaints are being brought to CFIA’s attention. The complaints process must to be transparent and accountable.

2 ii) Proposed Model: What are some considerations on implementation?

Whatever model that is chosen must be transparent and accountable. Consumers must have the results of the investigation of complaints (food safety, health claims, misleading labelling or food fraud) and the outcome reported back to consumers in an open and readily accessible manner. Any guidance, checklists and models developed by CFIA for industry on how to develop truthful and not misleading claims should be made available for comment by food and nutrition professionals and consumers and once the consultation process has been completed be posted on CFIA’s website (e.g. Labelling for Industry guidance tool).

2 iii) Proposed Model: Do you have any other comments?

Misleading communications often involve statements, symbols, or images that are literally true but lead consumers to make false inferences. The interpretation of misleading claims may be affected by factors such as culture, knowledge and education, and label characteristics. Labels can be misleading in different ways: because a material fact has been omitted, because confusing language or symbols are used, because consumers make incorrect inferences to an attribute which is the subject of a claim or other communication, because consumers make incorrect inferences to unmentioned attributes, and because an endorser is improperly used.

The psychological mechanisms that explain how consumers are misled by each of these types of misleading communications have been studied extensively in the literature. A thorough review of the literature is an essential first step.

Misleading representations on the food label can be prevented in different ways—for example, by requiring additional information, by establishing standards, or by prohibiting representations that are judged inherently misleading.

The research literature has demonstrated many of the ways truthful label information can nonetheless be misleading to consumers. Research methods, such as consumer surveys and focus groups (small group discussions with a trained moderator), provide data on consumers’ expectations and beliefs that may affect how consumers will interpret label information as well as consumers’ reactions to specific examples of potentially misleading label information. These research methods can be used to evaluate options for reducing or eliminating misleading communications in order to find the best approach for solving the problem.
A. Disclosures
One way to minimize or eliminate misleading inferences that consumers may draw from food labels is to require that additional information (i.e., disclosures) be placed on the label. Two major forms of required disclosure could be used to prevent misleading: unconditional and conditional disclosures. The former require that certain information be disclosed on all labels for certain foods, while the latter are used only to prevent misleading that arises when a specific statement appears on the food label.

Unconditional disclosures are particularly appropriate when information disclosed to consumers concerns an entire class of foods and is material to the purchasing decision of all or a segment of consumers. Conditional disclosures are appropriate only when particular statements, symbols or images would be misleading without the provision of qualifying information.

B. Standards
Another way to prevent misleading is to establish standards that must be met before specific representations can be made on a food label. Standards can be established by defining specific terms that can be used on foods or by developing criteria that a food must meet before it can bear certain terms.

C. Prohibitions
Another approach is to prohibit representations that are judged as inherently misleading. This is most appropriate when other approaches to eliminating potential misleading are likely to be ineffective.

Do you have any other comments about the proposals contained in this discussion / questionnaire?

DC appreciates the opportunity to comment on Phase III Discussion Paper and Questionnaire: Engaging on Key Proposals to Modernizing the Food Labelling System document. The recognition that typography regulations are important in ensuring that mandatory label information is easy to read and easy to find is welcomed. Addressing the issues surrounding highlighted ingredients is also important. DC looks forward to further discussions on the specifics of food standards and regulations that may be incorporated by reference. The recognition of the need to align with international food standards such as Codex is encouraging. However, what the discussion paper does not address satisfactorily is the proposed enforcement by CFIA of misleading labels and food fraud.