

March 8, 2021

The Honourable Patty Hajdu, P.C., M.P.
Minister of Health
Health Canada
Brooke Claxton Building, Tunney's Pasture
Postal Locator: 0906C
Ottawa, ON K1A 0K9

By e-mail: hcminister.ministresc@canada.ca

Re: Implementation/compliance timelines for labelling changes for food and beverage packaging

Dear Minister Hajdu:

On behalf of our members, Food, Health & Consumer Products of Canada (FHCP), the Canadian Beverage Association (CBA) and Retail Council of Canada (RCC) are writing to express our disappointment and confusion with Health Canada and the Canadian Food Inspection Agency's (CFIA) February 2021 communications to industry regarding their labelling priorities. As we move forward, we believe we can chart a clearer and more effective path and suggest the following to achieve this for the betterment of Canadians:

1. Health Canada consider providing industry four years from February 2021 to complete its implementation of the 2016 Nutrition Labelling Regulations¹;
2. Should it proceed, the implementation for Front-of-Pack Nutrition Labelling (FOPNL) Regulations² not start until the next cadence cycle, that is to say at least 4 years after the implementation of the 2016 Nutrition Labelling Regulations is complete;
3. Health Canada provide written confirmation on how it intends to ensure coordination and alignment of any labelling changes that may be required for products to be covered under the forthcoming regulations for supplemented foods (including fortified beverages and caffeinated energy drinks);

¹ ["Regulations Amending the Food and Drug Regulations \(Nutrition Labelling, Other Labelling Provisions and Food Colours\)." Canada Gazette, Part II Vol. 150, 25 – December 14, 2016](#)

² ["Regulations Amending Certain Regulations Made Under the Food and Drugs Act \(Nutrition Symbols, Other Labelling Provisions, Partially Hydrogenated Oils and Vitamin D\)." Canada Gazette, Part I Vol. 152, 6 – February 10, 2018](#)

4. Any further labelling changes (e.g., associated with Food Labelling Modernization (FLM) initiative/ Food Product Innovation (FPI)³) be coordinated and timed with these according to the cadence cycle; and,
5. Health Canada undertake a comprehensive review of its regulatory agenda in the context of COVID-19's impact and the needs of a post-pandemic Canada.

On February 1, 2021, Health Canada communicated its proposed plans for food labelling requirements in the [Forward Regulatory Plan 2020-2022](#), and informed industry via letter on February 2, 2021 of revised details regarding the implementation and compliance plans for the 2016 Nutrition Labelling Regulations. On February 3, 2021, the CFIA also announced that changes mandated under the 2016 Nutrition Labelling Regulations must be completed by no later than December 14, 2021, but with the CFIA undertaking “education/ awareness” actions until December 2022; discretionary enforcement would be applied until [December 2023](#).

We were disappointed with Health Canada's abrupt change in implementation plans advising industry, for the first time, that the 2016 Nutrition Labelling Regulations would be de-coupled from the FOPNL Regulations and that industry would have 3 years to update all labels (i.e., until December 2023). In our members' view, this announcement is a departure from previous commitments to align timing for implementation of the 2016 Nutrition Labelling Regulations with the FOPNL Regulations and the CFIA's FLM initiative, so that industry could make a one-time label change, and to extend the compliance deadline to a minimum of 4 years after both sets of regulations were finalized. We appreciate that through these communications Health Canada intended to provide clarity and reassurance; however, it has caused confusion.

The 2016 Nutrition Labelling amendments may have other costs implications such as environmental waste due to the product labels and packaging increase to accommodate the new requirements. We note that in his most recent mandate letter, Treasury Board President Jean-Yves Duclos was directed to *“apply a climate lens to all government decision-making and reduce greenhouse gas emissions from government operations by 40 per cent by 2025, and to net-zero by 2050.”*

BACKGROUND

In 2015 Health Canada published draft Nutrition Labelling regulations. In fall 2016 Health Canada announced its Healthy Eating Strategy, including a commitment to introduce mandatory FOPNL requirements. That fall CFIA also indicated its intent to mandate changes to the labelling of non-nutrition-related information on food labels.

³ [CFIA's Food Labelling Modernization initiative](#)

In December 2016, Health Canada published the 2016 Nutrition Labelling Regulations which included a five-year transition period, ending on December 14, 2021, to provide industry time to comply with the new requirements in a cost-effective manner.

Following this, government introduced two additional sets of proposed food labelling regulations. In February 2018, Health Canada introduced its proposed new FOPNL Regulations, followed by CFIA's proposed regulations under the Food Labelling Modernization (FLM) initiative in June 2019.

With the industry facing multiple sets of regulations, our organizations advocated for alignment of the 2016 Nutrition Labelling Regulations, FOPNL Regulations, and CFIA's FLM /FPI initiative. This is part of industry's request for an approach to labelling where the deadlines for implementation of mandated changes are aligned to minimize the number of label changes and associated cost impacts, and where industry is provided five years (60 months) to implement labelling changes.

Given industry's request for alignment, the proposed FOPNL Regulations included a provision to extend the transition for the 2016 Nutrition Labelling Regulations from December 14, 2021 to December 14, 2022 to align with the end of the four-year transition period being proposed for the FOPNL Regulations. The \$885-million implementation cost outlined in Health Canada's Regulatory Impact Analysis Statement (RIAS) of the draft FOPNL Regulations for the proposed 48 months transition period was already a 50% increase in implementation costs from 60 months transition period. However, finalization of the FOPNL Regulations, as well as CFIA's labelling changes under their FLM/FPI initiative, was delayed and our organizations sought assurances that the timelines/deadlines for implementation of the various Health Canada/CFIA food labelling initiatives would be aligned, and that the implementation timeline for the 2016 Nutrition Labelling Regulations would be extended so that industry would have 48 months to implement all mandated changes simultaneously.

Our respective organizations had both verbal and written confirmation (e.g., July 2019 letter to FHCP) from Health Canada and CFIA on both alignment of implementation timelines for the various food labelling initiatives and the extension of the implementation timeline for the 2016 Nutrition Labelling Regulations. As such, industry had legitimate expectations that the government would fulfill its commitment. However, in a February 2, 2021 letter to industry, Health Canada and the CFIA outlined a revised approach, stating that December 14, 2021 will be the end of the transition period for the 2016 Nutrition Labelling Regulations, and that they will exercise flexibility given COVID-19 challenges through education, compliance promotion, and enforcement discretion.

This letter also states that FOPNL continues to be a priority, but timing is delayed due to the pandemic - contradicting Health Canada's Forward Regulatory Plan, published one day earlier, which states that final FOPNL Regulations will be published in fall 2021.

Additionally, Health Canada has been working since 2011 on developing regulations to bring supplemented foods fully into the food regulations. In September 2020 Health Canada indicated that those regulations may also necessitate changes to the labelling of those products, including

whether they will continue to carry a Nutrition Facts table or not. Health Canada has not yet released the proposed regulations. Given that these regulations need to be finalized by the end of 2021 before the current Temporary Marketing Authorizations covering these products expire on December 31, 2021, industry will be facing further mandatory labelling changes in relation to these products. As such, it will be important that the timeframe/deadline for implementation of label changes to supplemented foods also be aligned with the deadline for other mandatory labelling changes.

Our associations are eager to continue working with Health Canada toward a modern, evidence-based regulatory framework for food and beverage products and we echo the recommendations of the House of Commons Standing Committee on Finance pre-budget report, *“Investing in Tomorrow: Canadian Priorities for Economic Growth and Recovery,”* calling on regulators to *“Consult with stakeholders and consider compliance costs before changing product labelling requirements.”*

We truly appreciate the opportunity to express our concerns and look forward to discussing this important matter at your earliest convenience. In the meantime, please do not hesitate to reach out should you require any further information.

Respectfully,



Michael Graydon,
Chief Executive Officer
FHCP



Jim Goetz
President
CBA



Diane J. Brisebois
President & CEO
RCC

- c.c. Sabina Saini, Chief of Staff to the Minister of Health
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