

2003 GUIDE TO FOOD LABELLING AND ADVERTISING

Chapter 1

Introduction

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Chapter 1

Introduction

1.1 Reason for the 2003 Guide

The 2003 *Guide* provides information on food labelling and advertising requirements as well as policies which apply to statements and claims made for foods, including alcoholic beverages. As such, it is a tool to assist industry in compliance with legislation and consumer protection. Food claims which adhere to the guidelines set out in this document are considered to comply with the provisions set out in the *Food and Drugs Act (FDA)* and the *Food and Drug Regulations (FDR)*, the *Consumer Packaging and Labelling Act (CPLA)* and *Regulations (CPLR)* and other relevant legislation.

Where it has been established that inequity or economic fraud has arisen when a segment of the food industry fails to adhere with these guidelines, the Canadian Food Inspection Agency will take steps designed to bring about national compliance.

Note: The framework set out in this *Guide* for the labelling and advertising of food specifically applies to foods imported into, manufactured in and/or sold in Canada. The policies do not apply to foods destined solely for export unless otherwise indicated.

1.2 Legislative Framework: Key Acts and Regulations

In this *Guide*, references to the *Food and Drug Regulations* appear between square brackets, for example, [B.01.001]. When references to other legislation are made, the abbreviated name of the Act or Regulations will follow the reference, for example, [2, *CPLR*]. For the abbreviations used to represent various pieces of legislation, refer to the Glossary.

1.2.1 The *Food and Drugs Act* and the *Food and Drug Regulations*

Subsection 5(1) of the *Food and Drugs Act (FDA)* prohibits the labelling, packaging, treating, processing, selling or advertising of any food (at all levels of trade) in a manner that is false, misleading or deceptive to consumers or is likely to create an erroneous message regarding the character, value, quantity, composition, merit or safety of the product. Subsections 3(1) and (2) prohibit health claims that might suggest that a food is a treatment, preventative or cure for specified diseases or health conditions, **unless provided for in the regulations**.

A food that does not meet the requirements of the Regulations is in violation of the Act:

An article of food that is not labelled or packaged as required by, or is labelled or packaged contrary to, the regulations shall be deemed to be labelled or packaged contrary to *subsection (1) [5(2), FDA]*.

The *Food and Drug Regulations (FDR)*, as they apply to food, prescribe, among other things, the labelling of all prepackaged foods, including requirements for ingredient labelling, nutrition labelling, durable life dates, nutrient content claims, diet-related health claims and foods for special dietary use. It also sets out bilingual labelling requirements.

1.2.2 The Consumer Packaging and Labelling Act

The *Consumer Packaging and Labelling Act (CPLA)* provides for a uniform method of labelling and packaging of prepackaged consumer goods (products sold at retail). It contains provisions regarding prevention of fraud and provides for mandatory label information with which consumers can make informed choices. It also requires the use of metric units of measurement and bilingual labelling.

No dealer shall apply to any prepackaged product or sell, import into Canada or advertise any prepackaged product that has applied to it a label that contains any false or misleading representation relating to or that may reasonably be regarded as relating to that product [7(1), *CPLA*].

No dealer shall, in advertising any prepackaged product, make any representation as to net quantity except in accordance with this Act and the Regulations [5, *CPLA*].

1.2.3 Definitions: The Food and Drugs Act and the Consumer Packaging and Labelling Act

The following excerpts from the *Food and Drugs Act (FDA)* and *Consumer Packaging and Labelling Act (CPLA)* are important in regard to food advertising and labelling. It should be noted that the definition of a term can vary from one piece of legislation to another. Therefore, care is needed to ensure the applicable definition is used.

"**Advertise** means to make any representation to the public by any means whatever, other than a label, for the purpose of promoting directly or indirectly the sale of a product" (*CPLA*).

"**Advertisement** includes any representation by any means whatever for the purpose of promoting directly or indirectly the sale or disposal of any food. . ." [2, *FDA*].

"**Distributor**" – see "manufacturer"

A "**label** includes any legend, word or mark attached to, included in, belonging to or accompanying any food, . . ." [2, *FDA*].

"**Label**" means any label, mark, sign, device, imprint, stamp, brand, ticket or tag [2, *CPLA*].

"**Manufacturer**" or "**distributor**" means a person, including an association or partnership, who under their own name, or under a trade-, design or word mark, trade name or other name, word or mark controlled by them, sells a food . . ." [A.01.010].

A "**prepackaged product** means any product that is packaged in a container in such a manner that it is ordinarily sold to or used or purchased by a consumer without being re-packaged" [2, *CPLA*].

"**prepackaged product** means any food that is contained in a package in the manner in which it is ordinarily sold to or used or purchased by a person" [B.01.001]

"**Sell** includes offer for sale, expose for sale, have in possession for sale and distribute, whether or not the distribution is made for consideration" [2, *FDA*].

"**Sell** includes:

- (a) offer for sale, expose for sale and have in possession for sale, and
- (b) display in such manner as to lead to a reasonable belief that the substance or product so displayed is intended for sale" [2, *CPLA*].

1.2.4 Relevant Legislation Administered by the CFIA

Other legislation may impose requirements on the advertising and labelling of food in addition to those imposed by the *Food and Drugs Act (FDA) and Food and Drug Regulations (FDR)* and the *Consumer Packaging and Labelling Act (CPLA) and Regulations (CPLR)*. There are many federal and provincial acts and regulations that pertain to agricultural practices and to the production, manufacture, composition, packaging, labelling, grading, marketing, storage, advertising, importation and exportation of food products. See 1.6 of this *Guide*.

At the federal level, these include:

- the *Canada Agricultural Products Act (CAPA) and Regulations (CAPR)*
- the *Meat Inspection Act (MIA) and Regulations, 1990 (MIR, 1990)*
- the *Fish Inspection Act (FIA) and Regulations (FIR)*

The above legislation applies to federally registered or licensed plants. The *Canada Agricultural Products Act (CAPA)* is a trade and commerce act with regulations pertaining to dairy products, eggs, processed eggs, fresh fruit and vegetables, honey, livestock and poultry carcass grading, maple products, and processed products (processed fruits and vegetables). The *Fish Inspection Act* and the *Meat Inspection Act* apply to fish and fish products and meat and meat products respectively, which are marketed through import, export and interprovincial trade. More information may be obtained through the CFIA website at:

<http://www.inspection.gc.ca>

1.3 Other Relevant Federal Legislation

Other federal legislation may also have to be considered, such as:

- the *Competition Act*
- the *Trade-marks Act*
- the *Radio and Television Broadcasting Regulations* under the *Broadcasting Act*

The *Competition Act* and the *Trade-marks Act* are both administered by Industry Canada. A *Guide to Trade-marks* is available through the Canadian Intellectual Property Office's (CIPO) website at:

http://strategis.gc.ca/sc_mrksv/cipo/tm/tm_gd_main-e.html

The *Radio and Television Broadcasting Regulations* under the *Broadcasting Act* are administered by the Canadian Radio-television and Telecommunications Commission (CRTC). (For more information, see Chapter 3 of this *Guide*.)

Other legislation, such as the *Weights and Measures Act and Regulations*, can be relevant in some instances. (For a reference to the *Weights and Measures Act and Regulations*, see 2.6 and 2.15 of this *Guide*, Net Quantity, and Labels of Shipping Containers.)

1.3.1 The *Broadcasting Act*

Broadcast advertising of alcoholic beverages is subject to the *Radio and Television Broadcasting Regulations* under the *Broadcasting Act* which require compliance with the Code for Broadcast Advertising of Alcoholic Beverages, revised February 1, 1997. Commercial messages must not be designed to promote the general consumption of alcoholic beverages. (See 1.5.2 of this *Guide*.)

1.4 Purpose of Food Labelling

The food label is one of the most important and direct means of communicating product information between buyers and sellers. It is one of the primary means by which consumers differentiate between individual foods and brands to make informed purchasing choices.

A label serves three primary functions.

- It provides basic product information (including common name, list of ingredients, net quantity, durable life date, grade/quality, country of origin and name and address of manufacturer, dealer or importer).
- It provides health, safety, and nutrition information. This includes instructions for safe storage and handling, nutrition information such as the quantity of fats, proteins, carbohydrates, vitamins and minerals present per serving of stated size of the food (in the Nutrition Facts table), and specific information on products for special dietary use.
- It acts as a vehicle for food marketing, promotion and advertising (via label vignettes, promotional information and label claims such as "low fat", "cholesterol-free", "high source of fibre", "product of Canada", "natural", "organic", "no preservatives added", and so on).

1.4.1 Canadian Federal Food Labelling Responsibility

Federal responsibility for development of Canadian food labelling requirements is shared among two federal departments, Health Canada and the Canadian Food Inspection Agency (CFIA).

Health Canada

Health Canada is responsible, under the *Food and Drugs Act (FDA)*, for the establishment of policies and standards relating to the health, safety, and nutritional quality of food sold in Canada.

Canadian Food Inspection Agency

The Canadian Food Inspection Agency (CFIA) is responsible for the administration of food labelling policies related to misrepresentation and fraud in respect to food labelling, packaging and advertising (*FDA*), and the general agri-food and fish labelling provisions respecting grade, quality and composition specified in the *Canada Agricultural Products Act (CAPA)*, the *Meat Inspection Act (MIA)* and the *Fish Inspection Act (FIA)*. In addition, the CFIA has responsibility for the administration of the food-related provisions of the *Consumer Packaging and Labelling Act (CPLA)*, including basic food label information, net quantity, metrication and bilingual labelling.

The CFIA is responsible for the enforcement of **all** of the above requirements.

1.4.2 CFIA's Food Labelling Information Service

The CFIA Food Labelling Information Service consolidates and coordinates voluntary federal food label reviews. This service is particularly directed to facilitating market entry for new businesses. (For contact information, see 1.6 of this *Guide*, Canadian Food Inspection Agency Food Labelling Information Service).

1.4.3 CFIA's Label Registration Unit

Certain food labels **must** be registered by the CFIA Process, Formulation and Label Registration Unit.

1. Labels originating from **federally registered Canadian meat, poultry and processed fruit and vegetable establishments** require label registration as follows:

a) from Canadian federally registered meat and poultry establishments:

- i) all labels intended for prepackaged products of prepared edible meat products for domestic sale, except:
 - meat products exempted under paragraph 3(1)(i) of the *Meat Inspection Regulations*,
 - salted Kosher meat, and
 - salted casings; and

- ii) all labels for single ingredient meats and poultry meats where an animal production claim is made such as "organic", "vegetable grain fed – no animal by-products" or "raised without antibiotics".

b) from Canadian federally registered establishments processing fruit and vegetable products:

- all labels intended for prepackaged products where grades, standards of identity and/or prescribed container sizes exist in the *Processed Products Regulations*.

2. Labels originating from **foreign meat, poultry and processed fruit and vegetable establishments** require label registration as follows:
 - a) from foreign establishments authorized to export meat products to Canada:
 - (i) same as from Canadian registered establishments; and
 - (ii) all labels intended for prepackaged products of single ingredient edible meat products intended to be sold directly to consumers at the retail level in Canada.
 - b) from foreign establishments wishing to export regulated processed fruit and vegetable products in larger than the largest (LTL) container sizes to Canada.

Submission of registration requests:

Label registration requests are to be submitted using form CFIA 1478 accompanied by the appropriate number of labels and recipes. This form is available on the CFIA Web site: <http://www.inspection.gc.ca/english/for/mpppe.shtml>. Consult the CFIA Fees Notice to determine whether a fee is applicable for your product.

Mail completed registration forms to:

Clerk
Label Registration Unit
Canadian Food Inspection Agency
1431 Merivale Road
Nepean, Ontario K1A 0Y9

1.5 Food Advertising Responsibilities

All advertising for food, including alcoholic beverages, is subject to the *Food and Drugs Act* and the *Food and Drug Regulations* and the *Consumer Packaging and Labelling Act and Regulations*. (See Chapter 3 of this *Guide*.)

1.5.1 Radio and Television Advertising for Food

The Code of Ethics of the Canadian Association of Broadcasters states no commercial message containing a claim or endorsement of a food or non-alcoholic beverage to which the *Food and Drugs Act and Regulations* apply may be broadcast unless the script for the commercial message or endorsement has been approved by the Food and Beverage Clearance Section of Advertising Standards Canada (ASC) and carries a current script clearance number. (Please refer to 3.14 of this *Guide*.)

Advertisements are reviewed using criteria in the *Food and Drugs Act and Regulations* and other related explanatory documents. Information on the procedure for submitting scripts to ASC is found in 3.14 of this *Guide*.

1.5.2 Radio and Television Advertising for Alcoholic Beverages

Radio and television advertising for alcoholic beverages is regulated under the *Radio and Television Broadcasting Regulations* under the *Broadcasting Act*. Broadcasters must adhere to the *Code for Broadcast Advertising of Alcoholic Beverages* to maintain a Canadian Radio-television and Telecommunication Commission (CRTC) licence. In response to a request from the alcoholic beverage advertisers and the broadcasters, Advertising Standards Canada (ASC) has established the Alcoholic Beverage Advertising Clearance Section to review and assign a clearance approval number to advertising copy. (See 3.14 of this *Guide*.)

1.5.3 Print Advertising for Food and Alcoholic Beverages

There is currently no mandatory federal requirement for the review of print advertising for food and alcoholic beverages. Print ads, however, may be voluntarily submitted for review to any one of the offices of the CFIA's Food Labelling Information Service. (See 1.6 of this *Guide*.)

1.5.4 Provincial Jurisdiction for Alcoholic Beverage Advertising

Some provincial liquor boards have criteria for print advertising. It would therefore be advisable to verify this issue with the provincial liquor board of the province(s) where the promotion of alcoholic beverages will take place, to ascertain whether the print advertising must meet provincial requirements.

See Chapter 10 of this *Guide*, Guide to the Labelling of Alcoholic Beverages, for the Addresses of Provincial and Territorial Liquor Boards.

1.5.5 Internet Advertising and the World Wide Web

Canada considers information available through the Internet as advertising and as such, it is subject to the same criteria as other advertising.

1.6 Sources of Additional Information on Labelling and Claims

The following acts and regulations are available on the Department of Justice Website at:

<http://canada.justice.gc.ca>

- i) the *Food and Drugs Act* and the *Food and Drug Regulations* (H41-1-2001 F (French) or E (English)),
- ii) the *Consumer Packaging and Labelling Act* (YX55-1985-C-38),
- iii) the *Consumer Packaging and Labelling Regulations* (RE910),
- iv) the *Canada Agricultural Products Act*,
- v) the *Meat Inspection Act*,
- vi) the *Fish Inspection Act*,
- vii) the *Competition Act*,
- viii) the *Trade-marks Act*.

Office consolidations are available from **Canadian Government Publishing** at the address indicated below.

Canadian Government Publishing

Communication Canada
Ottawa, Ontario K1A 0S9
Tel. (613) 941-5995 or 1-800-635-7943
Fax (613) 954-5779 or 1-800-565-7757

Canadian Food Inspection Agency Food Labelling Information Service

Additional information on labelling and claims is available from offices of the Canadian Food Inspection Agency.

British Columbia

Canadian Food Inspection Agency

400-4321 Still Creek Avenue
Burnaby, British Columbia V5C 6S7
Tel. (604) 666-6513
Fax (604) 666-1261

Canadian Food Inspection Agency

1905 Kent Road
Kelowna, British Columbia V1Y 7S6
Tel. (250) 470-4884
Fax (250) 470-4899

Canadian Food Inspection Agency

103-4475 Viewmont Avenue
Victoria, British Columbia V8Z 6L8
Tel. (250) 363-3455
Fax (250) 363-0336

Alberta

Canadian Food Inspection Agency

7000 - 113 Street, Room 205
Edmonton, Alberta T6H 5T6
Tel. (780) 495-3333
Fax (780) 495-3359

Canadian Food Inspection Agency

110 Country Hills Landing NW, Suite 202
Calgary, Alberta T3K 5P3
Tel. (403) 292-4650
Fax (403) 292-5692

Saskatchewan

Canadian Food Inspection Agency
301-421 Downey Road
Saskatoon, Saskatchewan S7N 4L8
Tel. (306) 975-8904
Fax (306) 975-4339

Manitoba

Canadian Food Inspection Agency
269 Main Street, Room 613
Winnipeg, Manitoba R3C 1B2
Tel. (204) 983-2220
Fax (204) 983-6008

Ontario

Tel. 1-800-667-2657
e-mail: labelwindow@inspection.gc.ca

Central Region:

Canadian Food Inspection Agency
709 Main Street West
Hamilton, Ontario L8S 1A2
Tel. (905) 572-2201
Fax (905) 572-2197

Northeast Region:

Canadian Food Inspection Agency
38 Auriga Drive, Unit 8
Ottawa, Ontario K2E 8A5
Tel. (613) 274-7374
Fax (613) 274-7380

Canadian Food Inspection Agency
2301 Midland Avenue
Scarborough, Ontario M1P 4R7
Tel. (416) 973-1438
Fax (416) 954-3576

Toronto Region:

Canadian Food Inspection Agency
1124 Finch Avenue West, Unit 2
Downsview, Ontario M3J 2E2
Tel. (416) 665-5055
Fax (416) 665-5069

Southwest Region:

Canadian Food Inspection Agency
1200 Commissioners Road East, # 19
London, Ontario N5Z 4R3
Tel. (519) 691-1300
Fax (519) 691-0148

Quebec

All non-mandatory label reviews originating in Québec should go to the Trois-Rivières office:

Canadian Food Inspection Agency
25 des Forges Road, Suite 418
Trois-Rivières, Québec G9A 6A7
Tel. (819) 371-5207
Fax (819) 371-5268

Canadian Food Inspection Agency
Carillon Place II
7101 Jean Talon Street East, Suite 600
Anjou, Quebec H1M 3N7
Tel. (514) 493-8859
Fax (514) 493-9965

Canadian Food Inspection Agency
Place Iberville IV
Suite 100, 2954 Laurier Boulevard
Ste-Foy, Quebec G1V 5C7
Tel. (418) 648-7373
Fax (418) 648-4792

Nova Scotia

Canadian Food Inspection Agency
P.O. Box 1060
1992 Agency Drive
Dartmouth, Nova Scotia B2Y 3Z7
Tel. (902) 426-2110
Fax (902) 426-4844

New Brunswick

Canadian Food Inspection Agency
850 Lincoln Road
P.O. Box 2222
Fredericton, New Brunswick E3B 5G4
Tel. (506) 452-4964
Fax (506) 452-3923

Prince Edward Island

Canadian Food Inspection Agency
690 University Avenue
Charlottetown, Prince Edward Island C1E 1E3
Tel. (902) 566-7290
Fax (902) 566-7334

Newfoundland

Canadian Food Inspection Agency
Northwest Atlantic Fisheries Centre
P.O. Box 5667
St. John's, Newfoundland A1C 5X1
Tel. (709) 772-8912
Fax (709) 772-5100