



April 26, 2018

Alfred Aziz, PhD
Chief, Bureau of Nutritional Sciences
Health Canada
251 Sir Frederick Banting Driveway
Ottawa, ON, K1A 0K9

Hasan Hutchinson, PhD
Director General, Office of Nutrition Policy & Promotion
Health Canada
100 Eglantine Driveway
Ottawa, ON, K1A 0K9

RE: *Front of Package Consultation #2/Canada Gazette1 – CNS response*

Dear Drs. Aziz and Hutchinson:

The Canadian Nutrition Society / Société canadienne de nutrition (CNS) is the leading Canadian society that integrates disciplines and professions interested in food and nutrition. We promote food and nutrition science and education, and advocate for the application of best practice and policies for the promotion of health and the prevention and treatment of disease. The CNS is pleased to participate in the Front of Package (FoP) Consultations #2/Canada Gazette1 input opportunity.

In preparing this response, the CNS undertook a number of steps, including the development of a member survey to invite input on relevant questions derived from the Health Canada public consultation as well as questions that we developed from Canada Gazette1. The survey responses (n=101) were summarized and offered guidance in the writing of our formal response. Additionally, CNS worked closely with its Board of Directors and a Working Group comprised of experts on this topic. Finally, CNS participated and considered input as shared by the Program for Food Safety, Nutrition and Regulatory Affairs (PFSNRA) - University of Toronto in our response.

CNS-SCN Board of Directors:

- David Ma, PhD, CNS President / Professor, Department of Human Health and Nutritional Sciences, University of Guelph
- Jim House, PhD, CNS President-Elect and VP Research / Head of the Department of Human Nutritional Sciences, University of Manitoba
- Mei Tom, RD, CNS VP Clinical / Director - Nutrition Service, Edmonton Zone, Alberta Health Services
- Robert Bertolo, PhD, CNS Past-President / Canada Research Chair in Human Nutrition and Professor, Department of Biochemistry, Memorial University of Newfoundland
- Alison Duncan, PhD, RD, CNS Treasurer / Professor, Human Health and Nutritional Sciences, University of Guelph
- Vera Mazurak, PhD CNS Director-at-large / Associate Professor, University of Alberta
- Guylaine Ferland, PhD, CNS Director-at-large / Professor, Université de Montréal
- Rupinder Dhaliwal, RD CNS Director-at-large / Director of Operations, Metabolic Syndrome Canada

Working Group members:

- Alison Duncan, PhD, RD, Professor, Department of Human Health and Nutritional Sciences, University of Guelph / Working Group Chair
- Marcella Garsetti, PhD, Nutrition & Health Manager, Unilever North America
- Isabelle Jacob, Dt.P., RD, Senior Scientific Affairs Manager, Danone
- Mary L'Abbe, PhD, Earle W. McHenry Professor and Chair, Department of Nutritional Sciences, University of Toronto
- Christine Lowry, MSc, RD, Executive Director, Healthy Grains Institute
- David Ma, PhD, Professor, Human Health and Nutritional Sciences, University of Guelph
- Véronique Provencher, PhD, RD, Assistant Professor, School of Nutrition, Université Laval
- Pat Vanderkooy, RD, Public Affairs Manager, Dietitians of Canada
- Andrea Grantham, Executive Director, Canadian Nutrition Society

Consultation on Proposed Front-of-Package (FoP) Labeling/Canada Gazette1

Preferred Label Design/Most useful in making food choice

In the CNS response to the first FoP Consultation (submitted on January 11, 2017), we agreed with the concept and value of a FoP approach; however we stated concerns regarding Health Canada's proposed approach to focus **only** on three specific nutrients of concern. At that time CNS had indicated that the approach:

- Lacks evidence and consumer testing;
- Is too narrow and will result in a vilification of foods rather than supporting Canadians in making healthy food choices;
- May discourage consumption of nutritious foods;
- May encourage industry to reformulate products to avoid being subjected to the FoP criteria (i.e. high-intensity sweeteners with low nutritional value, increased use of starch or other fillers, removal of lactose from milk to decrease sugar levels);
- Is inconsistent with other Health Canada policies/guidelines and fails to meet/complement Health Canada objectives.

While the CNS continues to have these concerns and our preference would be a more comprehensive FoP guidance approach that focuses on both positive **and** negative nutrients, we recognize that Health Canada is continuing to move forward on its original proposal to focus on three nutrients of concern. With this in mind, CNS did poll its membership, Working Group and its Board of Directors to seek input on the four designs to provide Health Canada with further feedback.

The CNS Board of Directors and FoP Working Group unanimously chose the "Magnifying Glass" as the preferred design. This image encourages consumers to look at the nutrients in the NFT in order to gain a better understanding of nutrients in the product. It incites them to pay attention, without frightening or shaming. This image is consistent with the "Facts up Front" FoP labeling initiative.

Response to the CNS member survey was different. Of the 101 responses received 53% of members chose the exclamation mark as the preferred design. Comments included that this image is universal and will encourage people to pay attention.

It is important for us to point out that, based on the varying responses, there is a lack of a clear consensus on a preferred design; thus demonstrating ambiguity even among individuals who would be considered experts in nutrition. This suggests that simplicity will not be easy to achieve for this type of food labeling. There are also no clear scientific indications to favour one or the other symbols.

The CNS urges Health Canada to ensure that an effective monitoring and evaluation program is put in place to ensure that the regulation is achieving its intended objectives. Those outcomes will provide important measured data for future direction. Further, Health Canada is encouraged to test whether the selected thresholds actually flagged the foods that should be identified with a FoP symbol.

Do you believe that using the FoP symbol will enable consumers to make healthier choices?

While this approach may help consumers to become more mindful of their food choices, CNS is concerned that this approach emphasizes too heavily on informing Canadians about what NOT to eat, rather than helping them to “make healthy choices the easy choice.” By focusing on three negative nutrients, this approach risks vilifying foods rather than supporting healthier choices; and may, at times, discourage consumption of healthy foods.

Again, CNS is concerned that this approach has been developed on a lack of scientific evidence and consumer testing. If this approach is to move forward, it will be critically important to ensure that a range of effective education initiatives are available to include food/nutrition literacy and food skills development; tied with policy that healthy food options are both accessible and affordable.

Do you believe that the FoP symbol will encourage manufacturers to produce foods lower in sodium, sugars and/or saturated fat?

This approach may encourage industry to reformulate products to avoid being subjected to the FoP criteria; but this may not always be a positive move. For example, the trend to reduce fat content in foods/provide lower fat products often resulted in food reformulations to include higher amounts of sugars and fillers (i.e. starch); or the practice of removing naturally occurring lactose from milk occurred in order to lower the amount of sugar.

The current proposal of 15% DV threshold to trigger the use of a FoP symbol without any indication of quantity of nutrient in a product may in fact limit reformulation. Products that are too far above the 15% benchmark may have little incentive to reformulate and those products already below this threshold will have little to no incentive. This is where a quantitative FoP system that is applied to all products may provide more motivation to manufacturers to lower sodium, sugars and saturated fats even if they are already below the FoP criteria.

It is also important to mention that some food items that can be a part of a healthy diet, but rank above the thresholds, are difficult to reformulate (e.g. cheese) – and this FoP system may discourage consumers from these nutritious food options.

Do you agree with the “high in” thresholds that trigger an FoP symbol proposed by Health Canada?

The CNS believes that a single symbol will not provide the distinction between a product with 15% DV of a nutrient and a product with much higher levels. While the 15% DV has logic based on the Office of Nutrition Policy and Promotion (ONPP) campaign of $\geq 15\%$ of the DV is a lot, this is a general guide and to use it to prompt a warning symbol on the front of a food package warrants evidence-based rationale.

Given the wide variation in the composition of food and beverages, there is a need to consider different thresholds for different foods and different nutrients. There may be a need for an adjustment factor, such as a qualifier approach that considers the energy density of a food. This is where a quantitative or semi-quantitative FoP may be more useful in equipping consumers with the ability to make informed food choices and allow for easier comparison between products.

Do you agree with Health Canada’s approach for the 15% DV to consider the largest of the Reference Amounts (RA), serving size (SS) that appears on the NFt, or 50g of food (if its SS and RA are less than 50g or ml and the % DV of the nutrient in a SS or RA of the food is 5% more)?

To avoid consumer confusion and simplify the system, the FoP framework should be used based on the labeled serving size (SS). This provides consistency with the NFt and is based on what consumers are actually consuming. The SS is also more understandable to consumers. Reference amounts (RAs) are arbitrary and lack a scientific basis, many are outdated and in need of modernization. Using the SS as the basis will identify additional foods that should require the FoP.

A clear example of how the using the largest of the RA and SS could cause consumer confusion is for products where the FoP system uses the RA and prompts a FoP symbol, yet the NFt indicates that the %DV for that nutrient of concern is less than 15%. For example, this can be seen on a 100 g single serving container of strawberry yogurt in which this product would be assessed based on its RA of 175 g (since it is greater than its SS of 100 g). The RA would then prompt the yogurt to carry a FoP sugars symbol (%DV based 175 g RA is 19%) where it would not if it was assessed based on its SS (%DV based on 100 g SS is 11%). This would cause a clear disconnect for the consumer between the presence of the FoP symbol and the information on the NFt. This disconnect is made more confusing since they are not consuming the RA of 175 g, but rather they are consuming the SS of 100 g. This confusion can be significantly reduced if the FoP framework is based on the labeled SS.

The CNS also feels it is important to mention that this question generated significant uncertainty among our survey responders who are typically individuals with a good working knowledge of nutrition. Health Canada will need to ensure clarity in its approach and a strong education campaign in order to minimize confusion amongst consumers.

Do you agree that products currently exempt from the requirement of displaying a NfT should also be exempt from carrying an FoP symbol?

If the FoP system is intended to prompt the consumer to further consider the food's nutrient composition, then it is logical that a NfT is required. Therefore, if the FoP system is applied to a food without a NfT, it will likely cause undue confusion amongst consumers. This then raises the larger issue of foods exempt from an NfT and the argument that NO food should be exempt from a NfT so that consumers can be fully informed.

The CNS recommends that the Food Directorate review its criteria for requirements to display NfT on all food packaging. Such a correction will also trigger FoP labeling for those products that would be more consistent and would better enable consumers in making more precise food comparisons for all foods.

Do you agree with fruits and vegetables without added ingredients (except water, approved food additives) being exempt from FoP, due to evident that they promote health benefits?

CNS agrees that fruits and vegetable without any added ingredients can be exempt from the FoP system since they will not prompt the thresholds of the system.

Do you agree with plain milk being exempt from carrying an FoP symbol due to evidence that they promote health benefits respectively in the adult population and in young children?

CNS agrees with this exemption but wished to point out that it prompts the issue of chocolate milk that, if subject to the FoP system and holds a sugar symbol, will at first glance be a comparable choice to a soft drink. This is where an adjustment factor or a quantitative or semi-quantitative approach may be particularly useful.

Do you agree with “whole eggs, fresh or liquid, frozen or dried” being exempt from carrying an FoP due to evidence that they promote health benefits?

Initially, CNS believed that an exemption on eggs and egg products is unnecessary since it seems that these products would not prompt a FoP symbol; however, since recent serving sizes have increased to 100g (2 eggs), a 100g serving now provides 3.04 g of saturated fat (Canadian Nutrient File Food Code 125). This places a serving size of eggs very close to the 15% DV cut-off for saturated fat. Since eggs are a nutrient-dense foods and it would be confusing to deter their consumption, the CNS recommends that the exemption be maintained.

Do you agree with foods where FoP would be redundant being exempt from an FoP (i.e. sugar, maple syrup, table salt)?

CNS believes that exempting these foods from the FoP system would be confusing. The public does not always know that these products are not redundant, and not including a FoP may give consumers the perception that they are healthier food products. There is room for misinterpretation; therefore the FoP should apply to these foods.

Do you agree that foods that contain 30% or less fat from saturated fat should be exempt from using a 50g basis when assessing FoP needs for saturated fats (i.e. nuts, seeds and vegetable oils) which have a smaller Serving Size and therefore subject to the 50g rule. These foods will not be exempt from using a 50g basis for sugar and sodium.

Adjusting small SS/RA products is not consistent with information on the NFt and will cause confusion for consumers. These products affect small RA and SS since they are consumed in small quantities, therefore their contribution to total sugar, sodium and saturated fat intakes are usually negligible. Health Canada therefore needs to consider a different solution for products with a small SS.

Do you agree with having a prohibition from carrying an FoP on prepackaged products for infants 6mos to 1 year; a food represented as containing a human milk substitute; a food represented for use in a very low fat diet?

The products listed above are meant for a special population, not the general populations, therefore **should not fall under the FoP regulations.**

Do you agree that Foods for Special Dietary Use (FSDU)/Division 24 should be required to carry a FoP symbol?

As stated above, FSDU target special populations and therefore should not fall under the FoP regulations that are intended for general populations.

FSDU and infant products have unique nutrient requirements. Some categories for FSDU within Division 24 and 25 are already exempt (formulated liquid diets, foods represented as containing a human milk substitute); however other Division 24 regulated products (based on a Health Canada response on the March 1 webinar) will not be exempt from FoP (meal replacements, nutritional supplements, and prepackaged meals and foods sold by weight reduction clinics). **These products should be included in the overall exemption since they are developed to serve a special population.** CNS urges Health Canada to include Division 24 and 25 in its entirety for FoP exemption.

Do you agree with Health Canada's Proposal to update the "No added sugars" claim to align with the new definition of "Sugars-based ingredients" in the list of ingredients?

As stated in the CNS FoP consultation response (January 11, 2017), we agree that it makes sense to align the meaning of "added sugars" with the new definition of "Sugars-based ingredients". The CNS urges Health Canada to ensure that the terms and definitions align with those of the World Health Organization (WHO).

Do you agree with Health Canada’s proposal to repeal the requirement for mandatory declaration on the principal display panel of aspartame, sucralose... while maintaining their declaration in the ingredient list, in alignment with other intense sweeteners and additives?

As stated in the CNS FoP consultation response (January 11, 2017), we acknowledge the logic used in this decision, but wish to emphasize the importance for Health Canada to seek input from those primarily affected (the PKU community).

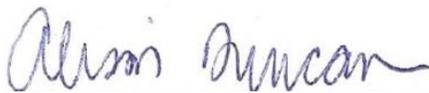
“CNS/SCN believes that this issue would be best addressed through focus groups with individuals who have phenylketonuria (PKU), care for someone with PKU, and provide dietetic advice to those with PKU, to determine if this proposed elimination will be harmful to the PKU community. With this in mind, CNS/SCN acknowledges that these ingredients are already listed in the ingredient list and that those individuals with PKU would be on alert and be reading the ingredient list. Furthermore, this approach is in line with the United States regulations. We also acknowledge that no other additives are listed in such a way on the FOP.”

Do you agree with Health Canada’s proposal to amend the FDR to increase the level of mandatory fortification with Vitamin D in cow’s milk, goat’s milk, and margarine?

CNS agrees with this proposal but recommends that it be considered more comprehensively rather than just a select group of foods. Although CG1 acknowledges this as an initial step, CNS recommends that the next steps be decided in ways that benefit the population more broadly and, in particular to help raise intakes of population groups at risk.

The CNS hopes that our response to the public consultation process FoP labeling provides feedback of value to your process. We hope that you will continue to engage our expertise at all stages of your process. Further the CNS would be pleased to support access to expertise to assist Health Canada in this ongoing process. Please feel free to contact us for further information or clarification.

Sincerely,



Alison Duncan, PhD, RD
CNS/SCN FoP Working Group Chair



Andrea Grantham
CNS/SCN Executive Director



Appendix A –

Working Group/Board of Director Disclosures

Alison Duncan, University of Guelph	<ul style="list-style-type: none"> • Research funding from: Agriculture and Agri-food Canada, American Institute of Cancer Research, Canadian Foundation for Dietetic Research, CIHR, Danone Institute, OMAFRA, Public Health Agency of Canada, Pulse Canada, Saskatchewan Pulse Growers, Weston Foundation • Currently serve on Scientific Advisory Boards for Bioenterprise and Guiding Stars Licensing Company • No financial or personal interest in any agriculture or food companies.
Robert Bertolo, Memorial University	<ul style="list-style-type: none"> • No disclosures to report
Rupinder Dhaliwal, Metabolic Syndrome Canada	<ul style="list-style-type: none"> • From 2001-2015, salary partially supported by research grants from Queen's University from Nestle, Baxter, Fresenius Kabi and Dietitians of Canada. I have received funding from Nestle and Baxter for travel to scientific meetings/conferences and honoraria for speaking engagements.
Guylaine Ferland, Université de Montréal	<ul style="list-style-type: none"> • No disclosures to report
Marcella Garsetti, Unilever North America	<ul style="list-style-type: none"> • Employee of Unilever North America
Jim House, University of Manitoba	<ul style="list-style-type: none"> • Current Grants & Contracts <ul style="list-style-type: none"> ▪ Agriculture and Agri-Food Canada Growing Forward 2 – Private :Public Partnership with: • Pulse Grower Associations and processing industries • Cereal Grower Associations and agronomic industries <ul style="list-style-type: none"> ▪ Natural Sciences and Engineering Research Council of Canada (NSERC) • Discovery Grant, Connect Grant <ul style="list-style-type: none"> ▪ Industry Contracts and Technical Services Agreements related to Protein Quality Assessment of foods and food ingredients <ul style="list-style-type: none"> ▪ Egg Farmers of Canada ▪ Manitoba Egg Farmers ▪ MITACS Canada • Current Participation on Advisory Boards and Grant Review Panels <ul style="list-style-type: none"> ▪ ILSI North America – Canadian Advisory Council ▪ AOAC International Editorial Board • No financial interests in agri-food/nutrition companies
Isabelle Jacob, Danone	<ul style="list-style-type: none"> • Employee of Danone
Mary L'Abbé, University of Toronto	<ul style="list-style-type: none"> • Research funding from: CIHR; HSFC; Health Canada; Burroughs Welcome Fund; IDRC; WHO, Geneva; Resolve to Save Lives Foundation; Earle W McHenry Research Chair, UofT; Lawson Centre for Child Nutrition, UofT • Member of the Nutrition Guidance Expert Advisory Group on Diet and Health (NUGAG) of the WHO, chair the PAHO Technical Advisory Group on Sodium Reduction for CVD prevention; member of the US National Academies of Science Panel on Global Harmonization of DRIs • Director of the WHO Collaborating Centre on Nutrition Policy for NCD Prevention • No financial or personal interest in any agriculture or food companies.
Christine Lowry, Healthy Grains Institute	<ul style="list-style-type: none"> • No disclosures to report
David Ma, University of Guelph	<ul style="list-style-type: none"> • Research funding from: CIHR, NSERC, Canada Foundation for Innovation, Dairy Farmers of Canada, Canola Council, OMAFRA, University of Toronto, University of Guelph, American Institute of Cancer Research, Bickel Foundation. • Provided consulting services/reviews and/or received honoraria

	and travel reimbursements from: Unilever, Dairy Farmers of Canada, Vegetable Oils Industry of Canada, Pepsi, Heinz infant institute, North American Meat Scientific Advisory Network/Canadian Meat Council, Governmental of Alberta, Government of Newfoundland, Michael Smith Foundation, Dietitians of Canada, American Oil Chemists Society, Dietitians of Toronto,
Vera Mazurak, University of Alberta	<ul style="list-style-type: none"> • No disclosures to report
Véronique Provencher, Université Laval	<ul style="list-style-type: none"> • Current research funding from: CIHR, SSHRC, MSSS, MAPAQ and Québec en Forme
Mei Tom, Alberta Health Services	<ul style="list-style-type: none"> • No disclosures to report
Pat Vanderkooy, Dietitians of Canada	<ul style="list-style-type: none"> • No disclosures to report