Health Claims in Food Advertising in Canada:
A Regulatory Perspective

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Outline

- Health Claims for Food
  - 3 categories
  - Regulatory framework
  - Issues
  - Consumer perspectives

- Health Claims in Food Advertising
  - Control mechanisms
  - Potential impact: factors to consider
Health Claims

- Any representation in labelling and advertising that states, suggests or implies that a relationship exists between the consumption of a food or a component of that food and health (Codex Alimentarius Commission, 2004)

- General or specific, stated or implied

- Must be truthful and not misleading (Section 5 of the Food and Drugs Act)
Health Claims

- Health claims can be:
  - Expressed explicitly, by words or logos
    - e.g. *Protein helps build and repair body tissues*
  - e.g. Health Check Program Logo
Health Claims

- Health claims can be:
  - Implied, by trademark or symbol
  - e.g. *B.L. Regularis, immuni*+
  - e.g. Heart symbols

- In each case, the *overall impression* created by the words and images on the label and in advertisements of the food product will be evaluated.
Three Categories of Health Claims

1. **Disease risk reduction and therapeutic claims:**
   - e.g. “Reduces risk of heart disease”
   - e.g. “Lowers serum cholesterol”

2. **Function claims:**
   - Normal function associated with health or performance
     - e.g. “Promotes regularity”
   - Function of nutrients or energy for normal growth and development
     - e.g. “Calcium aids normal bone and tooth development”

3. **General health claims:**
   - Claims about healthy eating or dietary guidance
     - e.g. “Include low fat product x as part of healthy eating”
   - Do not refer to a health effect
   - Include front of package logos, and symbols
Disease Risk Reduction Claims

- Statements that link foods or food constituents to a **reduced risk of developing a diet-related disease or condition** in the context of the total diet

  “A healthy diet low in [naming the food constituent] may reduce the risk of [naming the disease]”

- **Examples of accepted diet-disease relationships**

  - a diet adequate in calcium and vitamin D, and the reduction of risk of osteoporosis;
  - a diet low in sodium and high in potassium, and the reduction of risk of hypertension;
  - a diet low in saturated fat and trans fat, and the reduction of risk of heart disease;
  - a diet rich in vegetables and fruits, and the reduction of risk of some types of cancer.
Therapeutic Claims

Claims about treatment or mitigation of a disease or a health-related condition, or about correcting, restoring, or modifying body functions or a condition associated with symptoms that require active intervention.

Examples of accepted claims

- Phytosterols and cholesterol reduction
- Oats and cholesterol reduction
- Required claim statement
  - e.g. “1 cup (250 mL) of product A provides X% of the daily amount of plant sterols shown to help reduce/lower cholesterol in adults”
- Optional claim statement
  - e.g. “Plant sterols help reduce [or help lower] cholesterol”
  - “High cholesterol is a risk factor for heart disease”
Function Claims

- Claim about the **specific** beneficial effects that the consumption of a food or a constituent of a food (i.e. nutrient or other component) has on **growth**, **development** and **normal functions** of the body

- **Examples of acceptable claims**
  - “Promotes regularity”
  - “Hunger-calming snack”
  - “Helps maintain normal water and electrolyte balance”
Nutrient function claims formerly known as “biological role” claims are a subset of function claims.

Nutrient function claims describe a well established function of known nutrients or energy that are generally essential for the maintenance of good health or for normal growth and development.

Examples of acceptable claims:

- “Vitamin A aids in the maintenance of night vision”
- “Protein helps build and repair body tissues”
- “Calcium helps build strong bones and teeth”
## Food Health Claim Regulatory Requirements

<table>
<thead>
<tr>
<th>Type of Health Claim</th>
<th>Must be truthful and not misleading</th>
<th>Requires affirmation of food status through classification decision</th>
<th>Pre-market assessment required</th>
<th>Regulatory amendment required to assert conditions of use</th>
<th>Guidance provided (CFIA Guide to Labelling etc.)</th>
<th>Conditions for type of food that can carry claims set out in FDR</th>
</tr>
</thead>
<tbody>
<tr>
<td>Disease risk reduction or therapeutic claims</td>
<td>Yes</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
</tr>
<tr>
<td>Function claims (associated with health or performance)</td>
<td>yes</td>
<td></td>
<td></td>
<td>yes</td>
<td>yes (guidance)</td>
<td>yes (guidance)</td>
</tr>
<tr>
<td>Function claims (as applied to nutrients and energy necessary for normal growth and development)</td>
<td>yes</td>
<td></td>
<td></td>
<td>yes</td>
<td>yes (regulated)</td>
<td>yes (regulated)</td>
</tr>
<tr>
<td>General health claims (including logos, symbols related to healthy eating)</td>
<td>yes</td>
<td></td>
<td></td>
<td>yes</td>
<td>yes (on specific topics)</td>
<td></td>
</tr>
</tbody>
</table>
Requirements of nutritional criteria depend on the type of claim

- Disease risk reduction (DRR) or therapeutic claims:
  - Criteria specific to the claim
  - Additional nutritional criteria

- Nutrient function claims:
  - Minimum ‘source level’ for the claimed nutrient

- Other function claims:
  - Level of the claimed substance based on scientific evidence

Claim statements

- Specified for disease risk reduction and therapeutic claims
Modernized Approach to Manage Claims for Foods

☑ Applicable to food products carrying disease risk reduction or therapeutic claims

☑ Such claims do not automatically bring a food into the drug definition

☑ The product is a food if the health benefit comes as a result of:
  ➢ the food’s normal use as part of the diet (e.g. oats and cholesterol lowering), or
  ➢ the product containing an added substance in controlled amount being safe for consumption as food (e.g. phytosterol-enriched products and cholesterol lowering).
Foods with these claims can be marketed following publication of the health claim summary of assessment.

Regulatory amendments would be made only to affirm the status of products carrying such claims as food and the conditions of use for such claims.

This approach does not change the process for reviewing the validity of the health claim.
Guidance Document for Preparing a Submission for Food Health Claims

Bureau of Nutritional Sciences
Food Directorate, Health Products and Food Branch
Health Canada

March 2009
Scientific Substantiation (2)

Guidance Document for Preparing a Submission for Food Health Claims


- Applicable to all types of health claims except general health claims that do not refer to health effects

- Abbreviated documentation process available for function claims for nutrients with recommended intakes
Issues: ‘Non-specific’ Claims

- Broad (unspecific) claims with poorly defined health effects
  - Subject to multiple interpretations
  - Potentially misleading unless each interpretation is scientifically supported
Issues: Implied DRR/Therapeutic Claims

- Words such as “restore”, “support”, “maintain”, “promote”, “stimulate/strengthen/boost”, “protect”, “regulate”, “lower/reduce” have to be considered in context

- Use of images
Issues: Statements Outside Scope of Accepted Claim

- Inflated claims
  - magnitude of effect
  - length of time to achieve the effect

- Linked websites (disguised advertising)

- Comparison with drugs (‘not a drug’)
Consumer Perspectives

- Published literature on food health claims suggests consumers
  - Do not distinguish between different types of nutrition and health claims
  - Are confused and sceptical about certain health claims, but still welcome and look for nutrition and health information from various sources, including food labels
  - Able to act on information from health claims?
Consumer Perspectives (2)

- Consumers expect key information in a health claim to be stated in simple terms (focus group research, Health Canada, 2009):
  
  ✓ What is the ingredient that provides the health benefit?

  ✓ Exactly what is the health benefit?

  ✓ How much of the product to consume to get the health benefit?
Definitions

- **Advertisement**: Any representation, by any means whatever for the purpose of promoting directly or indirectly the sale or disposal of any food, drug, cosmetic or device (2, *Food and Drugs Act*)

- **Advertise**: Make any representation to the public by any means, other than a label, for the purpose of promoting directly or indirectly the sale of a product … (2, *Consumer Packaging and Labelling Act*)
Prohibition

- “No person shall label, package, treat, process, sell or advertise any food in a manner that is false, misleading or deceptive or is likely to create an erroneous impression regarding its character, value, quantity, composition, merit or safety” (5, Food and Drugs Act - F&DA)

- No reference, direct or indirect, to the Act, the FDR, on any label or in any advertisement unless specifically required by law (B.01.013, Food and Drug Regulations - FDR)
Presentation of accompanying information (other than the specified claim statement) (B.01.602 – B.01.603, FDR)

- **Radio advertisements**: must be communicated immediately preceding or following the claim

- **TV advertisements**: additional requirements in relation to the specified claim
  - Timing
  - Duration
  - Closeness
  - Prominence
Preclearance of broadcast advertising directed to consumers

- Performed by non-governmental agencies
- Not mandatory, but required by Code of Ethics of Canadian Association of Broadcasters
- Must also meet broadcaster’s standards and be pre-approved by the broadcasters
- Not applicable if no food claim is made

- Claims requiring premarket review
  - Within scope of approval

- Claims not requiring premarket review
  - Attestation to meeting specified criteria
Is it acceptable?
Are messages conveyed in food advertising congruent with Canadian nutrition policies?

- Content analysis of 3 national magazines targeted to women (2003-2008)
- Focus on 4 nutrients of concern to women: Ca, Vit D, Fe, Folate
- Messages include:
  - text and graphics
  - 4 formats: advertisement, article, image, recipe
  - Length: part of a sentence to multiple sentences

- 593 messages (in >1 format) identified
  - Most (285, 48%) were contained in articles
  - Followed by messages in advertisements (224, 38%), recipes (92), images (63)
  - 490 (83%) were accurate

- 157 messages (26%) could be evaluated against nutrition policies
  - 141 (90%) were congruent

Source: Cooper & Zalot, unpublished
Factors to consider

- Influences in consumer food choice decisions
  - Price
  - Taste
  - Convenience
  - Nutritional/health attributes?

- What are the concerns?
  - Impact on food choices and diet
  - Product + message
Nutritional content of advertised foods

- Low nutritional value is a concern
  - Advertising to children

- Less concern for foods carrying health claims
  - Minimum/standardized nutritional criteria for serious claims
Health claims are one of several kinds of information provided on food labels alongside:

- **Nutrition Labelling** (e.g. the Nutrition Facts table)
- **Nutrient Content Claims** (e.g. high fibre, fat-free)
- **Health Claims** e.g. Calcium & osteoporosis

![Whole Leaf Spinach](image)

### Nutrition Facts

<table>
<thead>
<tr>
<th>Amount</th>
<th>% Daily Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Calories / Calories</td>
<td>440</td>
</tr>
<tr>
<td>Fat / Lipides</td>
<td>19 g</td>
</tr>
<tr>
<td>Saturated / Saturés</td>
<td>4 g</td>
</tr>
<tr>
<td>+ Trans / Trans</td>
<td>0.2 g</td>
</tr>
<tr>
<td>Cholesterol / Cholestérol</td>
<td>35 mg</td>
</tr>
<tr>
<td>Sodium / Sodium</td>
<td>860 mg</td>
</tr>
<tr>
<td>Carbohydrate / Glucides</td>
<td>53 g</td>
</tr>
<tr>
<td>Fibre / Fibres</td>
<td>4 g</td>
</tr>
<tr>
<td>Sugars / Sucres</td>
<td>6 g</td>
</tr>
<tr>
<td>Protein / Protéines</td>
<td>15 g</td>
</tr>
<tr>
<td>Vitamin A / Vitamine A</td>
<td>45 %</td>
</tr>
<tr>
<td>Vitamin C / Vitamine C</td>
<td>4 %</td>
</tr>
<tr>
<td>Calcium / Calcium</td>
<td>20 %</td>
</tr>
<tr>
<td>Iron / Fer</td>
<td>20 %</td>
</tr>
</tbody>
</table>
Potential Impact: The Message

- **Challenges**
  - Communicating evidence-based health messages in a marketing format
  - Consumer understanding and use of health claims/messages
    - Different contexts
    - Different population segments
    - Health claim categories

- **Research needs**
  - Monitoring and evaluation
Questions on Health Claims?

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