



December 16, 2002

Dockets Management Branch (HFA-305)
U.S. Food and Drug Administration
5630 Fishers Lane
Room 1061
Rockville, MD 20852

**RE: Docket No. 94P-0036, RIN 0910-AB66:
Food Labeling: Trans Fatty Acids in Nutrition Labeling, Nutrient Content
Claims, and Health Claims
67 Fed. Reg. 69171 (November 15, 2002)**

The Center for Food and Nutrition Policy (“Center”) of Virginia Tech—Alexandria is an independent, non-profit research and education organization that is dedicated to advancing rational, science-based food and nutrition policy. It is recognized as a Center of Excellence on such matters by the Food and Agriculture Organization of the United Nations (FAO). The Center uniquely operates like an independent “think-tank,” while maintaining its academic affiliation with a major land-grant university. The research, education, outreach, and communications activities of the faculty are conducted in a relevant, time-sensitive manner that helps inform the public policy process on food and nutrition issues.

Encompassed in the center’s activities on nutrition policy are its interests in regulatory issues involving food labels and labeling. As such, the Center respectfully submits the following comments in response to the Food and Drug Administration’s (FDA) reopening of the comment period on “Food Labeling: Trans Fatty Acids in Nutrition Labeling, Nutrient Content Claims, and Health Claims” issues, docket no. 94P-0036, RIN 0910-AB66, as published in the Federal Register.¹

The Center recognizes the critical importance of FDA’s role in protecting public health and its pivotal role in educating the public about important health issues. The agency must balance evolving scientific information with developing regulations and enforcement actions that inform the public through nutrition labeling on food packages. But while the Nutrition Facts panel food label is informative, it is not—in many instances—the best or only way to educate consumers.

¹ Federal Register: Proposed Rules. November 15, 2002, Volume 67, Number 221, pages 69171-69172.

Only Half of Consumers Use the Nutrition Facts Panel

Enactment of NLEA (Nutrition Labeling and Education Act) in 1990 mandated that virtually all packaged foods display a standardized panel of information on the nutrient content of the food. Three years after the May 8, 1994, implementation of the Act, research conducted by FDA showed that 96.5 percent of foods carried a Nutrition Facts label.² One objective of NLEA was therefore achieved, providing consumers with the nutrition information they need to make informed food choices.

Another objective of NLEA was to educate consumers so that they could improve dietary habits by using the nutrition information listed on food packages. It was presumed that consumers placed significant importance on nutrition when deciding which foods to purchase, and that information on the food package would lead to a healthier diet. There is ample evidence that the second objective of NLEA has not been achieved in the last eight years since implementation of the Act.

Any labeling scheme and education program should understand the driving forces behind consumers' food purchases. In that regard, the U.S. Department of Agriculture has conducted the Diet and Health Knowledge Survey, 1994-96.³ In this survey, food safety and taste were the top two characteristics deemed as being "very important" to consumers. Eighty-four and 83 percent of consumers stated that food safety and taste were "very important," respectively. Nutrition and keeping quality of food ranked third and fourth—behind food safety and taste—with 62 and 57 percent of consumers claiming these characteristics were "very important."

Five months after implementation of NLEA, an FDA survey showed that about half (52 percent) of consumers claimed they used the nutrition label to make food choices.⁴ Five years later, a 1999 study published by Neuhouser and her colleagues reported that a little over half (55 percent) of consumers said that they usually or often read the nutrition labels.⁵ It therefore appears that consumers have made little progress in reading nutrition information that is provided on food packages.

It should be recognized, however, that some consumers do use the nutrition label. Those consumers tend to be 1) white females, 2) those with higher income and education levels, 3) people who are already eating healthfully, and 4) people with an important health concern.⁶ For example, a study conducted in four family medicine clinics in southwest Missouri showed that patients with high blood pressure were 63 percent more likely to look for sodium content on the food label than patients with

² Brecher SJ, Bender MM, Wilkening VL, McCabe NM, Anderson EM. Status of nutrition labeling, health claims, and nutrient content claims for processed foods: 1997 Food Label and Package Survey. *J Am Dietetic Assoc* 2000; 100: 1057-1062.

³ Tables 9.1-9.6; <http://www.barc.usda.gov/bhnrc/foodsurvey/pdf/dhks9496.pdf>

⁴ Derby B, Levy AS. *Oral presentation*. "Consumer use of food labels: Where are we going?" American Dietetic Association annual meeting, Orlando, FL, October 19, 1994.

⁵ Neuhouser ML, Kristal AR, Patterson RE. Use of food nutrition labels is associated with lower fat intake. *J Am Dietetic Assoc* 1999; 99: 45-46.

⁶ Kreuter MW, Brennan LK, Scharff DP, Lukwago SN. Do nutrition label readers eat healthier diets? Behavioral correlates of adults' use of food labels. *Am J Prev Med* 1997; 13: 277-283.

normal or low blood pressure; and patients with high blood cholesterol were more likely to look for saturated fat content.

Analysis of the FDA's Food Label Use and Nutrition Education Survey (FLUNES) showed that the Nutrition Facts panel was used most often to assess the level of a certain characteristic of the food product and to avoid a specific ingredient.⁷ Surprisingly, consumers did not use the Nutrition Facts panel to determine the nutritional content of the food.

More, Better, Consistent Consumer Education Is Needed

On June 8, 1999, the Center for Food and Nutrition Policy convened a Ceres[®] Forum on *Fat in the American Diet: The Science and the Policy*. One of the objectives of the forum was to examine consumers' specific knowledge about fat in the diet and discuss possible implications for labeling fat and certain fatty acids on food packages. Dr. Alan Levy, Chief of Consumer Studies Branch at FDA noted that consumer perception of fat as a contributor to heart disease rose dramatically in the 1980s.⁸ Moreover, by 1995, 80 percent of consumers mentioned fat as a dietary component that is related to heart disease. Levy also remarked that in spite of more recent education campaigns targeting consumers on the importance of saturated fat in contributing to heart disease, few consumers—four percent—mentioned the connection. Consumers have not gotten the message about eating a low saturated fat diet.

The consumers' lack of knowledge about saturated fat and the link to health may, in part, be due to a sharp decline in advertising during the 1990s, especially following implementation of NLEA. A recent report published by the Federal Trade Commission notes the following:⁹

“Saturated Fat Claims. Saturated fat claims are used in only 2 percent of advertisements prior to 1987, but then rise in frequency reaching a peak of 7.7 percent of all food ads in 1990, before falling again to under 3 percent of ads in the mid 1990s. Claims about the level of saturated fat in the product follow the overall saturated fat claim pattern quite closely, peaking in 1990 before falling to under 3 percent of ads in 1997. *Saturated fat comparative claims* peak at 3.7 percent of advertising in 1992, before falling steadily to zero percent of ads by 1997. Thus, in the post-1990 period saturated fat claims are used much less frequently than in 1990, with comparative saturated fat claims having essentially been eliminated.”

Moreover, during the panel discussion from the Ceres[®] Forum, several participating scientists questioned whether *trans* fatty acids should be labeled because

⁷ Brooks KC. The nutrition facts panel: who uses it and how is it used? Practicum for the Master of Public Policy degree, Georgetown University, May 2000.

⁸ Center for Food and Nutrition Policy, Proceedings of a Ceres[®] Forum on *Fat in the American Diet: The Science and the Policy*, June 8, 1999. edited by W. Sansalone. Center for Food and Nutrition Policy, Virginia Tech, Alexandria, VA 22314. pp. 63-65, 70-72.

⁹ Ippolito PM, Pappalardo JK. *Advertising Nutrition & Health: Evidence from Food Advertising 1977-1997*. Bureau of Economics Staff Report, Federal Trade Commission, September, 2002. pp. 40.

of concerns that consumers may ignore saturated fat. The panelists also noted that certain saturated fatty acids do not raise blood cholesterol and there has been suggestion that only the fatty acids that raise blood cholesterol be included on the label. This needs to be well-studied before taking action.

Consumers lack of understanding about saturated fat would question the wisdom of putting *trans* fatty acids (TFA) on the label—either as a footnote or as a separate line underneath total fat—without an aggressive, comprehensive education campaign that helps consumers understand the term and how and why they should limit consumption of TFA to be “as low as possible.”

In summary, the Center urges FDA to:

1. Conduct research to assess consumers’ knowledge and understanding of *trans* fatty acids.
2. Develop a comprehensive, aggressive consumer education program that will explain what *trans* fatty acids are, why they are important to health, and how consumers should read nutrition labels to help them sensibly reduce consumption of *trans* fatty acids while maintaining a varied and healthful overall diet.

Respectfully submitted,



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enc. Proceedings of a Ceres® Forum on *Fat in the American Diet: The Science and the Policy*