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ConAgra Foods, Inc.
Suite 950
1627 I Street, NW
Washington, DC 20006

TEL: 202-223-5115
FAX: 202-223-5118

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

RE: Docket No. 94P-0036; Food Labeling: *Trans* Fatty Acids in Nutrition Labeling, Nutrient Content Claims, and Health Claims; Reopening of the Comment Period; 67 Fed. Reg. 69171 (Nov. 15, 2002)

Dear Sir or Madam:

ConAgra Foods appreciates the opportunity to comment on the Food and Drug Administration (FDA) proposal to require the statement "Intake of trans fat should be as low as possible" on the Nutrition Facts panel when trans fat is listed. While ConAgra Foods supports the FDA's decision to require the mandatory declaration of trans fat content on a separate line within the Nutrition Facts Panel, we are deeply opposed to the proposed footnote.

ConAgra Foods, headquartered in Omaha, NE, is the nation's second largest retail food company and largest foodservice supplier. ConAgra Foods' consumer brands include: Hunt's, Healthy Choice, Banquet, Armour, Bumble Bee, Louis Kemp, La Choy, Lunch Makers, Knott's Berry Farm, Wesson, Country Pride, Blue Bonnet, Kid Cuisine, Parkay, Reddi-wip, Marie Callender's, Cook's, Butterball, ACT II, Slim Jim, Eckrich, Chef Boyardee, Orville Redenbacher's, PAM, Snack Pack, Van Camp's, Peter Pan, Hebrew National, Gulden's, Pemmican, Brown 'N Serve, Swiss Miss, and many others.

ConAgra Foods opposes the proposed statement because it is misleading and confusing, is not supported by consumer testing, is scientifically premature and sends conflicting messages to consumers about the relative benefits of saturated fat consumption versus trans fat consumption. Rather than proceeding with the footnote, ConAgra Foods strongly recommends that FDA undertake a major consumer education campaign regarding trans fat consumption and how it fits into a nutritionally balanced diet.

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Misleading and Confusing

Introducing the footnote in advance of a significant consumer education campaign on trans fat consumption will certainly confuse and mislead consumers. Consumers have been provided with no understanding of what constitutes either a “high” or a “low” amount of trans fat consumption. As such, we can only assume that they will believe the proposed phrase, “as low as possible,” means zero.

We are equally concerned that the proposed footnote will be viewed as a “warning” label, since no other nutrients, particularly saturated fat or cholesterol, will carry such an unprecedented statement. This would be an inappropriate and unjustified warning to avoid trans fat at all costs. In turn, we can expect consumers may increase their consumption of saturated fat as they seek to avoid trans fat. For example, they might choose butter (7 g of saturated fat, 31 mg of cholesterol) over vegetable oil spread (2 g of saturated fat, 2 g of trans fat, no cholesterol). Similarly, if consumers attempt to avoid trans fat at all costs, food processors may seek to meet that consumer demand through new formulations that substitute saturated fat for trans fat.

Trans fat is not part of the existing dietary guidelines so there is no educational foundation to assist consumers in understanding this vague statement. We believe that the complexity of trans fat issue is too overwhelming to communicate via a footnote on the Nutrition Facts panel. While we support the quantitative disclosure of grams of trans fat on a separate line on the nutrition facts panel, in the absence of a daily value, we believe the only effective manner to provide consumers with information on appropriate trans fat consumption is through a consumer education campaign.

Scientifically Premature

FDA cites the recent National Academy of Science/Institute of Medicine (NAS/IOM) report, *Dietary Reference Intake: Energy, Carbohydrate, Fiber, Fat, Fatty Acids, Cholesterol, Protein and Amino Acids* as the basis for the proposed footnote. Although the report did not establish a daily value (DV) for trans fat, the proposed footnote establishes a defacto DV and upper limit (UL). The FDA proposal says there is insufficient data to establish a DV, yet the proposed footnote implies that the DV is zero and the UL is zero. The NAS/IOM report indicates that a UL of zero would be inappropriate because eliminating trans from the diet “would require significant changes in patterns of dietary intake...(that) may introduce undesirable effects... and unknown and unquantifiable health risks.” Clearly the NAS/IOM report never intended for the American diet to strive toward a zero gram intake of trans fatty acids.

Unjustified Policy Shift

ConAgra Foods supported the FDA’s approach to designing the original Nutrition Facts panel in 1993. At that time, FDA considered extensive consumer research to ensure the nutrition information would provide meaningful guidance to consumers. The proposed

footnote represents a significant departure from the current label format in that it substitutes a qualitative statement (“intake of trans fat should be as low as possible”) for the quantitative numeric reference values (% DV declaration). Such a significant policy change should only be made if there is compelling consumer research to indicate that the statement will be easily understood and interpreted by consumers. No such research exists.

Moreover, we believe by adding this new and untested element to the nutrition facts panel, the utility of the entire panel is compromised. The amount of available label space for nutrition information is already severely limited and the combination of adding a new line to the Nutrition Facts panel for the quantitative disclosure of trans fat grams combined with an additional line at the bottom of the panel to accommodate the footnote will add to label clutter. Again, such a change should not even be contemplated unless consumer research justifies that it provides a net benefit to consumer understanding.

Summary

In conclusion, ConAgra Foods believes the issue of trans fat is too complex to communicate in a single footnote statement. Education is needed to assist consumers in understanding the amount of trans fat that may be ingested in a nutritionally balanced diet. We believe it is impossible to convey this message in the statement “Intake of trans fat should be as low as possible.” The statement is misleading and will add to consumer confusion about the appropriate consumption of trans fat.

ConAgra Foods urges that the FDA withdraw the proposed footnote statement and instead support an effort to educate consumers about the current dietary guidance for trans fat consumption.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Patricia Verduin". The signature is written in a cursive, flowing style.

Patricia Verduin, Ph.D.
Senior Vice President and Director
Product Quality and Development