



UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

**BEFORE THE  
DEPARTMENT OF HEALTH AND HUMAN SERVICES  
FOOD AND DRUG ADMINISTRATION**

**In the Matter of Food Labeling:  
Trans Fatty Acids in Nutrition Labeling,  
Nutrient Content Claims and Health Claims; Proposed Rule**

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**Docket No. 94P-0036**

**Comments of the Staff of**

Bureaus of Economics and Consumer Protection submit its views on the proposed mandatory provision of trans fat content information on the Nutrition Facts Panel. The comment also discusses how broadening the scope of permissible trans fat information might further enhance the benefits of the proposed changes.

The FTC enforces sections 5 and 12 of the Federal Trade Commission Act, prohibiting deceptive or unfair practices



any scientific debate arising over the relative effects of trans fats will take place outside of the context of the Facts Panel. Maintaining the descriptive nature of the panel should advance the Nutrition Fact Panel's credibility. In addition, the separate fat category option will likely minimize the need for future label changes.

The FDA has raised two concerns about separate trans and saturated fat listings that the FDA may wish to reconsider. First, the FDA has noted that consumer knowledge about trans fats is low. For example, the FDA's survey data indicates that almost 90% of consumers did not know how to interpret and use trans fatty acid information in 1995.<sup>(14)</sup> This survey evidence, however, reflects a period during which trans fatty acid labeling was prohibited. Consumer knowledge is likely to improve as trans fat dietary recommendations accumulate and labeling rules are relaxed. For example, the recent concern over trans fatty acids reflected in the Dietary Guidelines for Americans 2000 is likely to extend to other dietary recommendations and throughout the consumer information environment.<sup>(15)</sup> Consumer education efforts can also improve consumer knowledge about trans fats. In addition, once trans fatty acid information is required in food labeling, consumers are likely to become more aware of their potential health effects.

Second, the FDA has recognized that currently there are no explicit dietary recommendations for trans fatty acids, thus there is no basis for creating a Percent Daily Value (%DV) piece of information if a separate line is added to the Nutrition Facts label for trans fats.<sup>(16)</sup> This problem reflects the complex nature of nutrition science. As a point of comparison, however, we note that %DVs do not exist for polyunsaturated or monounsaturated fat. Yet, content

The FDA proposes a new "Trans Fat Free" claim (and several synonyms) in the labeling of foods that contain less than 0.5 grams of trans fat and less than 0.5 grams of saturated fat per serving. The development of such a descriptor is likely to be valuable, because it can help consumers identify relatively healthful products more easily, and therefore enhance the benefits of providing Facts Panel information. The FDA also is proposing to allow for the synonymous use of the terms "trans fat" or "trans fatty acids."

The agency also may wish to reconsider authorizing a definition for "Reduced Trans Fat." Marketing flexibility is an important engine for more healthful product improvements and for competition among products on various product attributes. Thus, the FDA may wish to balance this objective with its reasoning that the use of the claim could detract from educational messages that emphasize saturated fatty acids.<sup>(25)</sup>

## **VI. CONCLUSION**

The FDA's initiative to conduct a thorough review of trans fat labeling will go a long way toward ensuring that truthful and non-misleading nutrient information can help to improve consumer welfare and market outcomes. Separate saturated and trans fat cad iz "e ainesf towd 3(a)1h3(m)-e1(e )13(he)13( us)(D)6(Ael)(")8(s)-3( i)-d11(.)21(n)1(e a)13(t)2go3(l)-1(an) tnd



13. For example, some scientists believe that some trans fats are actually more harmful than some saturated fats, a distinction that, if proven correct, may suggest that greater emphasis be placed on trans fatty acids than on saturated fats. See Alberto Ascherio *et al.*, *Trans Fatty Acids and Coronary Heart Disease*, 40 *New Eng. J. Med.*: Sounding Board, 1994 (June 24, 1999).

14. Notice, 64 Fed. Reg. at 62755.

15. Dietary Guidelines for Americans, 32 (Feb. 7, 2000) <[www.ars.usda.gov/dgac](http://www.ars.usda.gov/dgac)>. See, also, Sally Squires, *Proposed Diet Guidelines Urge Trimming Bad 'Fat'*, *Wash. Post* (Feb. 4, 2000) at A1.

16. Notice, 64 Fed. Reg. at 62757.

17. Under the FDA's preferred option, a specific %DV for trans fatty acids is not defined because it is combined with the %DV for saturated fats.

18. "Health claims" are statements used in labeling to describe the relationship between individual dietary components and a particular disease that the FDA must approve before they are used in labeling..

19. Consumer research suggests that consumers who know about diet-disease relationships or believe that diet is important for reducing disease risks are more likely to use nutrition labels. See, e.g., Christine Moorman, *The Effects of Stimulus and Consumer Characteristics on the Utilization of Nutrition Information*, 17 *J. Consum. Res.* 362 (Dec. 1990); Marian L. Neuhouser *et al.*, *Use of Food Nutrition Labels is Associated with Lower Fat Intake*, 99 *J. Am. Diet. Assoc.* 45 (Jan. 1999); Lisa R. Szykman *et al.*, *A Proposed Model of the Use of Package Claims and Nutrition Labels*, 16 *J. Pub. Pol'y & Mktg.* 228 (Fall 1997).

20. For example, Aldrich concludes: "Providing consumers diet-disease information -- how to reduce the risk of cancer and heart disease -- is likely to be more motivating than offering general information about healthful eating without identifying the benefits." (See Lorna Aldrich, *Consumer Use of Information: Implications for Food Policy*, Food and Rural Economics Division, ERS, U. S. D. A., *Agricultural Handbook No. 715* at 18 (1999).)

21. Anu Mitra *et al.*, *Can the Educationally Disadvantaged Interpret the FDA-Mandated Nutrition Facts Panel in the Presence of an Implied Health Claim?* 18 *J. Pub. Pol'y. & Mktg.* 106 (Spring 1999); and Gary T. Ford *et al.*, *Can Consumers Interpret Nutrition Information in the Presence of a Health Claim? A L715he the Us(nt)15(t)15(i)-1(on )131 et al. Ga(l)-1g-1(t*