

The politics behind America's food labeling system

By Jon Gingerich

In January, the trade groups that represent U.S. food and beverage manufacturers announced a new plan to change the way their food packages reveal nutrition information.

The result was the “Nutrition Keys,” an industry-standard labeling system to be displayed on the front of food and beverage products. With a series of easy-to-read black and white icons revealing nutritional content — calories, saturated fat, sodium and sugars, as well as a to-be-determined list of “nutrients to encourage” — food manufacturers said they hoped the new labels could guide consumers to make healthy, informed choices. The new labels are slated to appear on approximately 70% of food products by next year.

Consumers and the press alike hailed the announcement. Editorials and food blogs the country over practically gushed praise for food manufacturers and their K Street thought leaders for being so unusually proactive, so responsible to take on something as transparent as a universal labeling initiative.

In truth, the writing had been on the wall for some time, and the big trade groups that represent our food and beverage manufacturers — namely, the Grocery Manufacturers Association and the Food Marketing Institute — had found themselves slowly backed into a corner. The White House had turned nutrition disclosure on its head when First Lady Michelle Obama kicked off her anti-obesity “Let’s Move” initiative last year, and current food labeling was a rumored first target. Meanwhile, the U.S. Food and Drug Administration has been involved in a years-long quest to update our nation’s labeling guidelines with improved science-based criteria — the first major update to food labeling since the now-ubiquitous Nutrition Facts system was implemented under the Nutrition Labeling and Education Act in 1990.

In PR terms, the options were simple: take control of the conversation before someone else does, draw the line before someone draws it for you. What followed after the announcement of the Nutrition Keys system was a round of bureaucratic backslapping: the White House issued a friendly — though noticeably tepid — statement claiming the new labeling initiative was a move in the right direction. The Grocery Manufacturers Association praised

the “Let’s Move” campaign for opening the industry’s eyes to the needs for new nutrition disclosure standards, stating food groups like the GMA “share First Lady Michelle Obama’s goal of solving childhood obesity.” A \$50 million PR and advertising campaign informing Americans of the Nutrition Keys initiative is set to coincide with the labels’ unveiling within the coming months.

In reality, the resulting Nutrition Keys initiative signaled less of an alliance of food manufacturers and the Obama administration than a split in the road. Many experts believe the new food labeling system offers little aside from misleading, inconsistent and often contradictory information, the result of surreptitious marketing disguised as nutrition facts.

“Front of label packaging is obviously critical in selling products,” said Sally Greenberg, Executive Director for Washington D.C.-based consumer rights group the National Consumers League. “But all this gets very confusing for people, and I think it gets away from the simple and honest messages that we think consumers ought to have. People who are shopping are in a hurry, they want things they can understand quickly. Right now I’m looking at the back of a bag of Cheetos and you’d think it was the world’s best health food.”

Nutritional interests

This isn’t the first time in recent years our federal regulatory bodies and the trade groups that represent U.S. food and beverage makers have butted heads.

As a stipulation of the Nutrition Labeling and Education Act enacted twenty years ago, manufacturers were allowed to boast on packages any positive benefits the product may have. Not surprisingly, front-of-package designs have become a sort of canvas for snake oil medical claims in the years since. “Low fat!” “High in fiber!” “Cholesterol free!” “A good source of protein!”

Two years ago, after warning letters were sent by the FDA to food manufacturers regarding misleading labeling claims, the agency conducted a series of reviews before issuing a guidance letter recommending a voluntary labeling system that uses standardized, science-based claims as criteria on front-of-package labels. In the letter, the agency stated it was only interested in a voluntary system, but warned that if such a plan failed it would consider the implementation of a new mandatory system similar to the current Nutrition

Facts.

In response, the same food giants that would later be responsible for the Nutrition Keys initiative came together to offer their labeling solution, titled Smart Choices.

Proponents of the Smart Choices system proposed a labeling system the highlighted what ingredients in their foods are healthy for consumers. From an advertising perspective this makes sense: it’s much easier to flaunt your positive attributes than it is to admit your nutritional shortcomings. From an objective, informational standpoint however, the tactic is clearly flawed: under such a system, practically every product could make a health claim. Predictably, regulators balked at the idea, saying such a system could trick consumers into buying “bad” foods that incidentally contained healthy ingredients. A September 2009 *New York Times* article reported that sugary foods like Froot Loops had reportedly been labeled as one “healthy” food item. The Smart Choices program was voluntarily suspended shortly thereafter.

Fast-forward two years. The Institute of Medicine released an FDA-commissioned consumer study concluding front-of-packaging labels should only list the necessities: calories, sodium, trans-fats and saturated fats per serving. The FDA, during preliminary meetings regarding the enactment of a new voluntary labeling system, then brought recommendations regarding how food manufacturers could provide accurate nutrition facts. One recommendation was that U.S. food manufacturers use a labeling system similar to Britain’s, where “healthy” foods receive a green label and “unhealthy” foods receive a red label — a sort of nutritional spotlight for shoppers. The food industry immediately rejected this idea, stating such a system would drive away consumers.

The Obama administration tried their hand at another suggestion: food manufacturers could voluntarily adopt a labeling system that emphasizes what ingredients may be unhealthy for consumers. Again the food industry disagreed. Just like the Smart Choices program, food manufacturers said they wanted labels that also laud a product’s healthy contents.

When packages bearing the Nutrition Keys system hit shelves later this year, it may prove efficacious in showing consumers how much saturated fat, how much sodium, how many calories exist in a food product. However, this information will

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now be bookended by a list of up to eight completely unregulated “positives”: fiber, potassium, omega-3s and vitamins. Conceivably, an “unhealthy” product could be loaded up with vitamins and nutrients and passed off as a “healthy” choice.

In a statement to the press, the Center for Science in the Public Interest, a Washington, D.C. nonprofit consumer advocacy group that specializes in nutrition and health, referred to the Nutrition Keys system as a “scheme consisting of confusing icons that will be largely ignored by consumers.”

“It’s unfortunate the industry wouldn’t adopt a more effective system or simply wait until the Food and Drug Administration developed a system that would be as useful to consumers,” said CSPI Executive Director Michael Jacobson. “The whole point of front-label nutrition information or symbols should be to convey quickly and simply how healthful a food is ... (the) Nutrition Keys system appears to be designed to distract consumers’ attention from, not highlight, the high content of sodium, added sugars, or saturated fat in all too many processed foods.”

FDA spokesperson Siobhan Delancy said the FDA remains “fairly neutral on the Nutrition Keys system,” but said the FDA has voiced concerns regarding the labels’

addition of a “positive” nutrients emphasis.

“We have similar concerns that there would be a risk of label clutter,” she said. “We’re a science-based regulatory agency. Therefore, our goal is to have a front-of-pack label that is evidence-based, and our ultimate goal is for consumers to have a tool that is useful to them.”

Label when convenient

Today, it seems there’s a label for everything. We can currently find out if our food has aspartame, trans-fats, MSG. We know when something is “low-fat,” “high in fiber” or “cholesterol free.” And under President Obama’s healthcare reforms, Section 4205 will now require restaurants and retail food establishments to post calorie content information on their menus. In 2011, expect to see labels everywhere.

If studies are any indication, we like labels. A 2008 national FDA survey found that more than half of all Americans now look at labels when they buy a food product, an increase of 10% since 2001.

The questions remain: If nutrition labels are going to be used to laud a product’s positive features, how are they any different from an advertisement? How can consumers rely on them to have any accuracy? And when do they go too far? In February, the National Consumers League filed a formal complain with the Federal Trade Commission regarding labeling claims

made by beverage Vitamin Water. The consumer group alleges the sports drink uses deceptive statement in its marketing and packaging tactics with claims like “vitamins plus water, all you need,” and “flu shots are so last year.”

It should also be noted that much of the information to be printed on the Nutrition Keys label will essentially be the same as what already appears on today’s involuntary Nutrition Facts labels, minus particularly useful information like the Daily Values percentages. At the end of the day, it remains to be seen whether the guides will offer anything new aside from marketing messages disguised as nutritional symbols.

According to Delancy, the implementation of an FDA mandated, front-of-package labeling system that would supercede the Nutrition Keys system is still “absolutely a possibility.” However, the agency has not yet gathered evidence showing anything other than a voluntary labeling system would be beneficial. A second front-of-package IOM study is due later this fall.

“Our goal has always been to allow the labeling system to be voluntary. When you do regulation it’s a much longer and involved process,” she said. “We’ll look to see how things unfold. We hope that if our recommendations are different this fall, the industry would adapt.” ●



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