



PROPOSED FOOD LABELLING
MODERNIZATION REGULATORY
AMENDMENTS PUBLISHED IN
CANADA GAZETTE PART 1

Response to the Canadian Food Inspection Agency
Proposed Regulations

To:

Director, Consumer Protection and Market
Fairness Division
Food Safety and Consumer Protection Directorate
Canadian Food Inspection Agency
1400 Merivale Road, Tower 2, Floor 6
Ottawa, Ontario
K1A 0Y9
[cfia.labellingmodernization-
modernisationetiquetage.acia@canada.ca](mailto:cfia.labellingmodernization-modernisationetiquetage.acia@canada.ca)

CC:

Marco Valicenti
Agriculture and Agri-Food Canada
Marco.Valicenti@canada.ca

Jay Holmes
National Manager, Food Labelling
jay.holmes@canada.ca

From:

Baking Association of Canada
7895 Tranmere Drive, Suite 202
Mississauga, Ontario L5S 1V9

For further information contact:
Johanne Trudeau, RD
Director Food and Nutrition Policy
jtrudeau@baking.ca
905-405-0288 ext. 26

Submitted September 4, 2019

Introduction

The Baking Association of Canada (BAC) is a nationally registered, not-for-profit trade association representing the country's \$8 billion commercial, retail and in-store bakeries. BAC's membership currently represents more than 70% of the nation's production offering a wide range of products including breads and rolls, cakes, cookies and other sweet goods along with frozen dough. We thank the Canadian Food Inspection Agency (CFIA) for the opportunity to provide comments on the *"Proposed Food Labelling Modernization regulatory amendments published in Canada Gazette Part 1"*.

In this submission BAC will focus its comments on the following areas:

- 1. Best Before Date**
- 2. Foreign state of origin of imported food**
- 3. Location and Legibility**
- 4. Highlighting Ingredients**

1. Best Before Dates

- A. BAC previously submitted the need to continue allowing the use of two letters for month and two numbers for year (e.g. MR 15 for March 15) on the plastic closure of fresh bread bags because:

- 1) Consumers are familiar with this approach;
- 2) Fresh bread products have only a couple of week's shelf life so adding the year is not meaningful and could increase confusion.

BAC appreciates the flexibility of keeping the current practice of marking the day and the month as long as a reference to where that information is located on the label is available.

However we do not support mandatory requirements for Best Before/Meilleur avant in some specific bakery applications relating to bread bag closures for numerous reasons. Space limitations on the plastic closure do not permit this copy and as current packaging indicates clearly that the Best Before date is on the plastic closure, we submit it is unnecessary to declare it once again.

In addition the plastic closure includes not only the best before date but also other code information for traceability purpose. Such information could be the hour of the packaging or the work team present or the production line and/or other relevant

information in case of a recall. This information must be taken into consideration in the proposed regulations and allowed in the list of options. In the “Appendix 1”, we are including a sample of the current practice for “best before” date marking.

BAC therefore recommends that it should be optional to include “Best Before/Meilleur avant” on the plastic closure

- B. The proposed regulations require that date marking and storage instructions for products with a shelf life of 90 days. BAC is questioning and asking for disclosure of the rationale and the evidence supporting the choice of 90 days versus i.e. 60 days or 120 days.
- C. Regarding the use of the abbreviation BB/MA instead of Best Before/ Meilleur avant, the proposed regulations provide an exception if the available display surface of a prepackaged product intended for sale to a consumer is less than 100 cm².
BAC recommends to allow the abbreviation to be used with no limitations related to the display surface.
- D. More fundamentally, the changes proposed by CFIA face significant technical challenges due to equipment limitations for date coding on bread bag closure systems. The proposed changes to current practice will generate significant cost to the baking industry and plastic waste if it is needed to increase the size of the plastic closure.
We recommend that CFIA maintains the current industry practice in the proposed regulations.

2. Foreign state of origin of imported food

In past consultation BAC did not support mandating the location of this information and was asking CFIA to provide flexibility for the location of the information. We support the revised approach and appreciate the flexibility and the various options provided, including the use of “From United States and/or Canada and/or country”.

3. Location and Legibility

- A. BAC is confused regarding the lack of consistency on type size between the Safe Food for Canadians Regulations (SFCR) and the proposed regulations on Food Labelling Modernization (FLM):

According to SFCR [Subdivision F – Measurement of type size 211 a) and b)], in the measurements of the type size the height of characters is determined by measuring the

height of the lower case letter “o” in the font used for words in upper and lower case and the height of an upper case letter if the words are shown in upper case.

According to the FLM proposed regulations [B.01.005.2 a) and b)], the height of characters in an item of information is determined by measuring the height of the lower case letter “x” in the font used if the item of information is shown in lower case and both upper and lower case letters and the height of the upper case letter “H” in the font used if the item of information is shown in upper case letters only.

In order to ensure consistency on product packaging we would recommend that CFIA adopt the SFCR font size requirements for application to the proposed FLM regulations.

- B. BAC believes that the article B.01.006 (5) b) regarding the 1.5 multiplication factor is unnecessary. In the case where all other changes regarding legibility are applied, it is considered more than enough to improve legibility and the multiplication factor of 1.5 does not add any further value.
- C. BAC supports the intent of “adequate contrast”. As BAC previously commented, CFIA should provide further clarity on what is considered adequate contrast to prevent subjective enforcement by CFIA inspectors as well as subjective application by industry.
BAC is recommending that CFIA provide a clear definition of what is considered “adequate contrast”.

4. Characterizing Ingredients

- A. BAC does not support the requirement for % of ingredient highlighted through words or pictures on the label. As per previous consultations, BAC opposes this requirement for reasons of space availability in the list of ingredients (LOI) and for ingredient confidentiality.
- B. BAC is seeking clarification on the word “characterizing ingredient”. We notice the use of multiple words such as characterizing, highlighting and emphasis which adds to the confusion. We also offer that characterizing should not include a product name when provided as information. Consider the example of a “Blueberry Muffin”, in a transparent packaging which is named Blueberry Muffin (see Appendix 2). BAC is of the opinion that there is no characterization, no highlighting and no emphasis on ingredient blueberry, and the information on the label is only directing consumers to understand which product they are purchasing.
Therefore, BAC recommends that the definition of “characterizing ingredient” excludes simple product name.

- C. The proposed regulations does not provide any guidance on the method of calculation of the % of the characterized ingredients which is extremely problematic, especially for bakers.

A different calculation method could favour one product over another while they both contain the same amount of the characterizing ingredient. For example, let's look at two Quinoa Breads. Quinoa Bread X contains 10% of quinoa if we calculate the % of quinoa based on the total amount of flour (this is the baking method). Quinoa Bread Y is made with the same amount of quinoa, however the calculation method is on the total weight of all ingredients and as a result, it would indicate 3.3% of quinoa. This lack of consistency in the calculation method would create unfair competition and mislead consumers.

BAC recommends that the method of calculation aligns with the baking method and be applied across all products. BAC also recommends clear guidance on the rounding rules.

- D. It is BAC understanding when there is a regulatory definition of the product, like 100% whole wheat bread, there would not be a requirement to indicate the % of whole wheat flour in the LOI.

BAC supports this position and recommends that it is clear in the regulations that products with a regulatory definition be exempted from declaring % of ingredients.

- E. We already mentioned in previous consultations that ingredient composition information is not always available from suppliers who consider this information proprietary. Past experience with allergen labelling clearly showed that industry suppliers were hesitant to unwilling to provide clarity of the allergen composition of their ingredients. In response BAC supported the application of the allergen declaration initiatives to include food suppliers which finally enabled food manufactures to confidently comply with the allergen disclosure requirement.

Should CFIA continue to proceed with % declaration of characterized ingredients, BAC recommends that CFIA must also require a similar declaration from ingredient suppliers.

- F. For certain types of products, like pies or muffins, where the "characterized ingredient" is not uniformly distributed, it will be difficult to specify the percentage. The automated depositor of filling or ingredient is not so precise to deposit the same percentage of ingredient (peach or cherries) in each of the pie or muffin.

BAC is recommending that CFIA provides a tolerance level for the % of characterized ingredients.

- G. BAC supports the requirement of the term flavour or flavoured when flavouring is used.

- H. The proposed regulations do not define small amount but provide an exemption if only a small amount of the characterizing ingredient is used, the manufacturer has the

option of either declaring the percentage in the list of ingredients or indicating “flavour” or “flavoured”.

BAC is recommending that <2% be considered small amount.

- I. CFIA proposed timelines for “Characterizing ingredient” is December 2026 or six years after registration of the regulatory changes in the Canada Gazette Part II. BAC is urging CFIA to work with Health Canada to harmonize the timelines for characterizing ingredients with the timing for the Nutrition Labelling, extending the current Health Canada timelines. The new Nutrition Labelling requirement with regards to the LOI will require some re-design of packaging because of the increased length in both English and French.
- J. If the proposed regulations on characterized ingredients move forward and our industry needs to declare % of each and single grains in a 9-grain bread or multigrain bread, this will further increase the length of the LOI significantly, requiring a re-design of the packaging, increasing the cost to our industry. Although some of the packaging go through some changes every 3 years or so, a full re-design done twice in a 5-year period will be prohibitively expensive for our members.

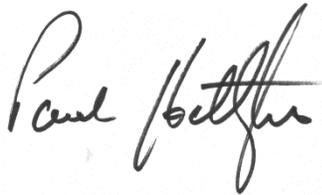
Recommendation Summary

The following is a summary of BAC recommendations regarding the Food Labelling Modernization proposed regulations:

1. BAC recommends that bread manufacturers be allowed to continue the current practice of placing the best before date as month and day on the plastic quick lock and including a reference on the bread bag as to the location of the best before date.
2. BAC recommends allowing use of the proposed abbreviation BB/MA for “Best Before/Meilleur avant” without consideration of the display surface.
3. BAC recommends that CFIA adopt the definition of font size appearing in the SFCR for use in the FLM proposed regulations.
4. BAC recommends removal of the 1.5 multiplication factor.
5. BAC recommends that CFIA provides further clarification on what is considered “adequate contrast”.
6. BAC does not support the requirement for mandatory disclosure of % of any ingredient highlighted through words or pictures on the label. However, if CFIA is to proceed it must follow the precedent established with allergen labelling and extend mandatory disclosure to food industry ingredient suppliers.
7. BAC recommends that CFIA provide a definition of “characterizing ingredient” that excludes the product name.
8. BAC recommends a consistent method of calculating the % of the characterized ingredients while also respecting current practice in the baking industry, i.e. calculating the % flour or grains based on the total weight of all flours or all grains.
9. BAC recommends that a tolerance threshold be established specifically when automation makes it impossible to calculate a precise % of characterizing ingredients.
10. BAC recommends that less than 2% be considered to define a small amount.
11. BAC recommends that CFIA and Health Canada work together to extend the date for the Nutrition Labelling new regulations, so that industry can make all changes related to the LOI together.

BAC once again appreciates the opportunity to provide comments to this consultation and hopes that this submission will be provide useful to CFIA in improving the proposed FLM regulations. Please do not hesitate to contact us for further information or clarification.

Respectfully submitted,

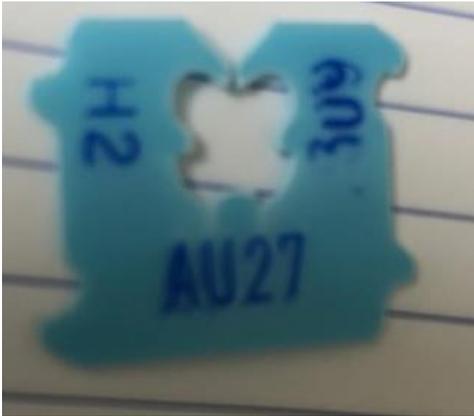
A handwritten signature in black ink, appearing to read "Paul Hetherington". The signature is fluid and cursive, with the first name being the most prominent.

Paul Hetherington
President and CEO

A handwritten signature in black ink, appearing to read "Johanne Trudeau". The signature is cursive and elegant, with the first name being the most prominent.

Johanne Trudeau
Director, Food & Nutrition Policy

Appendix 1



Appendix 2

