

October 11, 2018

Division of Dockets Management
Food and Drug Administration
Department of Health and Human Services
5630 Fishers Lane, Room 1061
Rockville, MD 20852

Re: FDA-2018-N-238; The Food and Drug Administration’s Comprehensive, Multi-Year Nutrition Innovation Strategy; Public Meeting; Request for Comments

United Fresh Produce Association respectfully submits the following comments on the Food and Drug Administration’s (FDA’s) comprehensive, multi-year Nutrition Innovation Strategy. United Fresh Produce Association brings together companies across every segment of the fresh produce supply chain, including growers, shippers, fresh-cut processors, wholesalers, distributors, retailers, foodservice operators, industry suppliers and allied associations. We appreciate the agency’s commitment to align food labels with dietary advice and encourage the FDA to use this opportunity to both promote healthful foods and to prevent misleading labeling that hampers Americans’ ability to make healthful dietary choices consistent with the Dietary Guidelines for Americans (DGA).

Contrary to the sound recommendations of the DGA, Americans under-consume healthful foods, and in particular, fruits and vegetables. The Centers for Disease Control (CDC) reports that only one in ten Americans are meeting recommended consumption rates. Labeling transparency is a valuable tool for assisting consumers in making healthful choices and following dietary advice.

The stakes are high: seventy percent of adults and 33 percent of children and teens are now overweight or obese.^{1,2} Approximately 45 percent of adults have diabetes or prediabetes.³ Every time a consumer goes looking for healthier food and is sold a food or beverage that undermines their health, that is a missed opportunity to reduce diet-related disease.

Many consumers who dutifully try to follow dietary advice nonetheless struggle with excess weight gain, high blood pressure, prediabetes, and other preventable diet-related health problems. Data from the International Food Information Council show that health, as well as weight loss, are core considerations for most consumers in making food choices. Consumers pay attention to labels: more than half of consumers look at the Nutrition Facts Panel or ingredient list “often” or “always” when making a

¹ Fryar CD, Carroll MD, Ogden CL. Prevalence of Overweight, Obesity, and Extreme Obesity Among Adults Aged 20 and Over: United States, 1960–1962 Through 2013–2014. National Center for Health Statistics, July 2016. Accessed at: <https://www.cdc.gov/nchs/data/hestat/obesity_adult_13_14/obesity_adult_13_14.pdf>.

² Fryar CD, Carroll MD, Ogden CL. Prevalence of Overweight and Obesity Among Children and Adolescents Aged 2–19 Years: United States, 1963–1965 Through 2013–2014. National Center for Health Statistics, July 2016. Accessed at: <https://www.cdc.gov/nchs/data/hestat/obesity_child_13_14/obesity_child_13_14.htm>.

³ National Center for Chronic Disease Prevention and Health Promotion. *National Diabetes Statistics Report, 2017: Estimates of Diabetes and Its Burden in the United States*. 2017. Accessed at: <<https://www.cdc.gov/diabetes/data/statistics/statistics-report.html>>.

purchasing decision, and approximately 40% say they consider other labeling statements about health or nutrition benefits.⁴

Healthy Label

Labels provide actionable information at the point of decision, connecting dietary choices to health. Yet products across the marketplace can be marketed to make food and beverages appear more healthful than they are. Specifically, consumers should not be misled that processed foods like sugar-laden cereals and salty snacks with images of fruits and vegetables are adequate dietary substitutes for fresh fruits and vegetables. For this reason, FDA has an opportunity to address potentially misleading or inaccurate labeling claims that may enable unhealthy foods to unfairly compete with fresh fruits and vegetables, which occupy too little space in Americans' diets.

When considering labeling policy, it is particularly important to note that unpackaged fresh fruits and vegetables often bear no labels at all. Accordingly, while a FDA-defined healthy logo holds potential to be useful for consumers for packaged foods, it could have an unintended consequence of signaling to consumers that a packaged product with an icon is a better choice than unpackaged commodities like fresh fruits and vegetables.

Meaningful Amount

The FDA also expressed an interest in exploring claims for products that Americans often fall short of consuming, including considering how claims could or should signal that a product contains a "meaningful amount" of these food groups. To create more clarity for consumers, we encourage the FDA to consider requiring clear, transparent declarations on foods making fruit and vegetable claims that would allow consumers to understand how these products do, or do not, contribute to a healthy dietary pattern.

A "meaningful amount" of fruits and vegetables should not allow claims based on powders, juices, purees, pastes, and concentrates, which are not as nutritious as whole fruits or fresh-cut because they lack the low-calorie density, cell structure, intact fiber, and other factors that contribute to the healthfulness and satiety of whole or cut up fruit. Permitting "meaningful amount" claims for these ingredients could appear to inflate the minimal nutritional value of options that are less nutritious than real fruits and vegetables, and therefore undermine Americans' efforts to eat more healthful foods.

Deceptive Labeling

We encourage the FDA to review the most frequently employed claims with implications for public health, including "made with" and "contains real fruit" claims, the use of misleading images of whole fruits and vegetables when only minuscule amounts are in a serving, the use of misleading titles for categories of foods that are unhealthy or are minimally nutritious foods (i.e., "Veggie Sticks," "Fruit Snacks"). The agency should consider whether, taken as a whole, such labels, images or claims are misleading or deceptive.

⁴ International Food Information Council Foundation. *2018 Food and Health Survey*. Washington, DC: International Food Information Council Foundation, 2018. Accessed at: <<https://www.foodinsight.org/2018-food-and-health-survey>>.

Instead, we urge the FDA to address this issue by:

- Consider requiring foods making fruit and vegetable claims (through words or depictions) disclose the quantity of fruits and vegetables per serving in household measures (e.g., “contains 1/8 teaspoon of strawberries per 1-cup serving”). The declaration should be specific to the type of fruit or vegetable depicted or mentioned in claims, to avoid creating a lack of transparency that unfairly depicts that more desirable or expensive ingredients (e.g., “spinach” or “strawberries”) predominate in a food when they do not.
- Foods that contain fruit or vegetables that are not in their whole or cut form (without added sugar or sodium) should not be counted towards the amount of fruit in the declaration (for example, powders, concentrated fruit juice, or purees). A required disclosure should additionally indicate that the “The Dietary Guidelines for Americans recommends that at least half of your daily amount of fruit intake should be from whole fruits.”
- If a food is lacking in fruits and vegetables and contains only fruit or vegetable flavoring, it should bear a disclosure: “Contains no real fruits/vegetables.”

At a time when so many Americans struggle to maintain or return to a healthy weight, empowering consumers to make healthier choices with responsible labeling is important. Despite DGA advice to consume a wide variety of whole fruits and vegetables, Americans in every age group and across socio-economic lines consistently fail to consume the amount of fruit and vegetables recommended. Accordingly, the FDA plays a critical role in changing the course of the nation’s health and nutrition crisis. We thank the agency for taking a bold approach and stand ready and willing to assist as the Nutrition Innovation Strategy (NIS) moves forward. Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink that reads "Mollie E Van Lieu". The signature is written in a cursive style and is positioned above the typed name and title.

Mollie Van Lieu
Senior Director, Nutrition Policy
United Fresh Produce Association