

TITLE: CLAIMS AS TO THE COMPOSITION, QUALITY, QUANTITY AND ORIGIN**LEGISLATIVE REQUIREMENTS**

Currently, there are no regulations specific to wine kits. However, the Food and Drug Act and Regulations and the Consumer Packaging and Labelling Act and Regulations regulate statements and claims made for food.

LEGISLATIVE REFERENCE

Guide to Food Labelling and Advertising Canadian Food Inspection Agency:

Section IV: Claims as to the Composition, Quality, Quantity and Origin. The following is extracted from the Section IV.

4.1 General Impressions**4.1.1 Impressions**

The words and visual depictions used in labelling and advertising, as well as the impressions they create, are important. Exaggeration, depiction of incredible performance or feats, and innuendoes should be avoided if they create false or misleading impressions in the advertisements. Illustrations of scientific equipment and machinery, the size of displays and the relative size of modifying statements should be appropriate.

4.1.2 Descriptors

Words that have no explicit meaning when used to describe foods create doubt or confusion about the food and often lead to claims that are misunderstood by consumers. Thus, the use of such descriptive words should be avoided on labels and in advertisements, unless the meaning of these words is clarified.

4.1.3 Descriptors to Avoid

There are certain words which should be avoided in food claims. Words such as "**balanced**" or "**prescribed**" should be avoided as they are often misunderstood and are consequently misleading (see Balanced, Section 7.1.1). Also objectionable are superlatives such as "**best**", those of unusual emphasis such as "**sensational**" and comparatives such as "**better**" and "**superior**". These words are all likely to be regarded as false, exaggerated, misleading or deceptive, except in certain circumstances where users may be qualified to use their own judgment or sufficient information is provided to enable the consumer to evaluate the comparison. Words or phrases implying that a food is nutritionally perfect should not be used.

4.1.4 Scare Advertising

It is improper to create alarm by suggesting that any one food is essential to health or nutritional well-being. Advertisers should not claim that a competitor's product contains harmful or undesirable ingredients or constituents or that other food may not be as nutritious as their own. Advertisers should not suggest some foods are good while others are bad nor associate guilt with certain foods (see Health-Related Claims, Section VII).

4.1.5 Illustrations

Pictures and charts are common and valuable aids to advertising. They should not, however, be used to exaggerate, mislead or misrepresent the value of a product.

4.1.5.1 Illustrations of People and Facilities

Where pictures purport to represent a known person, the actual person concerned should be portrayed in the advertisement. Representations of professional people, laboratories or of scientific apparatus having no direct connection with the product and used to create "atmosphere" should not be used. "Before and after" pictures are to be avoided. Where the picture professes to represent the food offered for sale, the actual marketplace product should be shown. If the product must be prepared, then the product prepared according to the directions should be shown in the picture.

4.1.5.2 Vignettes

Ingredients that are not present in a food may not be illustrated on the label of the food or in the advertisement for the food unless it is made clear that the ingredient is not a part of the food. For example, if a picture of fruit appears on a label or in an advertisement of food containing a very small amount or no fruit, care should be taken not to give the impression that the product contains an abundance of fruit or fruit constituents. Under the *Consumer Packaging and Labelling Regulations*, the label of an artificially-flavoured food showing a pictorial representation of the natural source of the flavour, such as a picture of strawberries, is required to carry a statement on the principal display panel that the product is artificially-flavoured. The statement must also be on, or adjacent to, the vignette in letters of at least the same size as the minimum type height requirement for the numerical part of the net quantity. This also applies if a combination of both natural and artificial flavouring agents are used (section 34, *CPLR*).

4.1.5.3 Atmosphere

The creation of a vague, mysterious, provocative or otherwise unusual atmosphere that has no relation to the product or its origin should be avoided.

4.1.6 Failure to Disclose

It is considered unacceptable to use partial truths to create a false impression concerning a food. This includes the failure to disclose the essential facts concerning the properties or composition of the food being advertised, particularly when emphasis is given to the more desirable characteristics or to expensive ingredients. For example, it is technically possible to simulate meats, nuts, chocolate, poultry, etc., that have the physical appearance, texture, taste, etc., of the food simulated. In such cases, advertisements that fail to disclose the presence of simulated nuts, meat, poultry or chocolate in foods (especially when the nut, meat, poultry or chocolate content of the food is emphasized) would likely create an erroneous impression that more of the real ingredients are present than is the case. This impression may be created by illustrations as well as by words, which is why any pictorial representation of the product must accurately portray the product itself.

4.1.7 Statutory Terms and References

Any terms having a meaning or definition under any statute of the Parliament of Canada should conform with that meaning. In the use of such terms, one must also take into consideration consumer perception of the meanings of the terms. For example, the claim "contains no filler" is subject to the definition of filler (B.14.001, FDR). Terms such as "**ingredient**", "**durable life**", "**packaging date**", "**age of an alcoholic beverage**" and "**vitamin**" are examples of terms defined in the *Food and Drug Regulations*.

4.1.7.1 References to the *Food and Drugs Act and Regulations*

Section B.01.013 of the Regulations prohibits any reference, direct or indirect, to the *Food and Drugs Act or Regulations* on any label of, or in any advertisement for, a food unless the reference is specifically required or permitted by the *Food and Drugs Act or Regulations*.

4.1.8 Endorsements, Awards, Seals of Approval

For endorsements, awards, logos and seals related to nutritional or health related claims, see Third-Party Endorsements, Logos and Seals of Approval, Section 7.3.

4.1.8.1 Certified, Approved and Certificates of Analysis

Descriptive terms such as "**certified**", "**approved**" and "**certificates of analysis**", may be misleading unless all the facts pertaining to the claim are known to the consumer or are shown on the label or in the advertisement. The inspection legend under the *Meat Inspection Act* typifies an acceptable use of certification because it indicates that the product containing the meat ingredient comes from an establishment under the jurisdiction of the Canadian Food Inspection Agency.

4.1.8.2 Professional Endorsements

Professional endorsements for specific foods and diets may be misleading and generally are considered inappropriate for advertising purposes. If used, it is the responsibility of the advertiser to ensure that the endorsers are in fact whom they represent and their representations do not violate the *Food and Drugs Act and Regulations* or the *Competition Act*.

4.1.8.3 Awards, Seals and Certificates of Approval

Awards, seals and certificates of approval should be used with caution. When the consumer is fully aware of the reasons for which an award was won, or for which a seal or certificate of approval was granted, there is no objection to its use or mention. If the mention of an award gives the impression that the food product is nutritionally superior, or that it was won for reasons other than those for which it was actually won, then such mention becomes misleading and objectionable. In many cases, an award should not be featured, unless the praiseworthy qualities for which the award was won are also outlined and are still valid for the product. Generally, the date of the award should also be mentioned. Similarly, one should be careful not to convey an erroneous impression that a seal or certificate of approval by an approving organization was given to every batch or unit of the product. For example, the claim "official product of the Olympics" should not imply that the product is endorsed by the athletes or by that organization unless it is so endorsed.

4.1.8.4 Personal Opinions, Testimonials and Honest Convictions

Claims in the form of personal opinions, testimonials, honest convictions or alleged new discoveries, are not exempt from the provisions of the *Food and Drugs Act and Regulations* and are judged in the same manner as other claims. Claims confined to the nature of flavour, texture, taste, appearance or similar attributes may be acceptable if these claims can be evaluated easily by consumers.

4.1.9 Comparisons and Dangling Comparisons

Comparisons of one food with another or with selected factors of other foods can be misleading if the comparison is not complete or if the foods do not lend themselves to comparison because they are dissimilar in character, composition, etc. The comparison of one food with another should not create doubt about the value of the other food. For comparative claims related to the nutrient content of food, see Nutrient Content Claims, Section VI. For comparative food advertising, see Guidelines on Comparative Food Advertising, Section III, Annex 3. One must be careful not to create a false impression:

when comparing solid foods with liquid foods either on a mass-for-mass or volume-for-volume basis;

when comparing a food consumed in small quantities with one consumed in large quantities; and

when comparing a food eaten occasionally with one that is consumed regularly.

4.1.9.1 Dangling Comparisons

Words such as "better" and "richer" often imply a comparison, without indicating its basis. If the claim refers to qualities such as flavour, texture and appearance, it is not usually regarded as misleading unless unduly derogatory. If the product is an improvement over one previously made by the same firm, this should be clearly indicated and the nature of the improvements should be identified.

4.1.9.2 New, Improved

Foods are often described as "**new**" or "**improved**". If a food is described as "**new**", it is implied that such a food was never before offered for sale by the manufacturer, or that it has been substantially altered. In many cases, such terms are used to describe the packaging, the labelling or such factors as a new flavour. "Improved" implies that the food, or some aspect of the food, has been modified to make it better than before. In all cases, such claims are valid for a period of **one year or less** in the region where they are made. When such claims are made, the way in which a food is new or is improved should be stated on the label and in the advertisements, unless the reason for this claim is perfectly clear.

4.1.10 Appropriated or Inferred Claims

Making a claim for a product or its use so that the merits of another article, with which it may be associated or used, are directly or indirectly appropriated to the product itself, is deemed to be misleading.

4.1.11 Qualifying Statements or Disclaimers

Once introduced, false or misleading statements or vignettes cannot be corrected by explanations or disclaimers (see Vignettes, Section 4.1.5.2). The use of an asterisk to direct attention to a statement in an obscure location, explaining that a featured statement is not exactly what it appears to be, is unacceptable. However, the use of asterisks to provide additional information which is not mandatory is acceptable.

4.2 Composition and Quality

4.2.1 Common Names, Coined Names, Trade Names and Brand Names

According to the *Food and Drug Regulations*, B.01.001, "**common name**" means, with reference to a food:

"the name of the food printed in bold face type in these regulations;

the name prescribed by any other regulation; or

if the name of the food is not so printed or prescribed, the name by which the food is generally known" (general trade practice).

Generally:

A food should be described in advertisements by its common name. For example, orange juice from concentrate (B.11.133, *FDR*) should be described as "orange juice from concentrate" and not "orange juice". After referring to the product by its proper common name at least once in the advertisement, it is acceptable to use the generic term "juice" or the brand name for subsequent or additional references.

A coined name that is trade-marked or is the name of an incorporated company is subject to all provisions of the *Food and Drugs Act* and the *Consumer Packaging and Labelling Act*.

Coined and trade names may be acceptable as common names for some unstandardized foods if they are well known to consumers because of long exposure (e.g., Pepsi-Cola), provided that they do not lead to deception or misdirection.

Common names that incorporate words not justified by the composition of the food may be misleading.

It is misleading for names to suggest directly or by phonetic rendering, benefits or results that are not likely to be obtained.

A product must not use directly or by phonetic rendering in a manner likely to deceive, the name of another product it resembles, or of which it is an imitation or substitute.

The common name should not improperly suggest a place of origin (see Quantity and Origin, Section 4.3).

An ingredient mentioned in a common name of a food should be present in a significant proportion. If the name of an ingredient is mentioned in the common name of a product to denote the flavour of the product, this should be clear in the advertisement and on the label (see exceptions (Beverages or Beverage Mixes Identified with the Name of a Fruit), Section 8.9.1).

Mixes that incorporate the name of a standard food into their common name (e.g., French dressing mix) would be expected to exhibit the characteristics of the named standard food when prepared according to directions, but would not necessarily be required to comply in all respects with the standard for the food. For example, an anti-caking agent suitable for use in unstandardized foods would be acceptable in a French dressing mix, although it would not be permitted in the standard for French dressing.

4.2.2 Qualified Descriptive Common Names of Standardized Foods

The common name of a standardized food should not be used to describe any food unless that food meets the provisions set in the standard for composition, strength, potency, purity, quality or other property for that food.

Where a standard provides for optional ingredients, or prescribes a range regarding the amount of an ingredient or constituent that may be present in a food, the common name of that standard may be modified to indicate that an ingredient or constituent is absent or is contained at a specific level in the food, i.e., "**no salt added mayonnaise**" or "**65% vegetable oil mayonnaise**".

A **modified common name** of a standardized food **may not** be used to describe a food that does not meet that standard **unless** the following conditions are met:

It must always be clear to consumers that the food so described does not, in any respect, meet the standard. This is usually established through general understanding and popular use, for example, root beer, ginger ale, peanut butter, nut-meats.

The consumer is told, in all respects, on the label and in advertisements, the provision(s) which the food does not meet within the standard. This information must always be in evidence in a clear and prominent manner as part of the common name on labels and in advertisements, for example, flavoured shortening, coloured sugar and soy milk.

In some cases, the modified common name of the standardized food is not sufficient to describe the differences between the food so designated and the standardized food. In cases such as "**light/lite (naming the standard food)**", information must be shown in a **clear** and **prominent** manner on the principal display panel of labels and in advertisements, describing in all respects how the modified food differs from the standardized food (see Comparative Claims, Section 6.1.9).

Another option is to establish standards for the foods in question, such as light beer, icing sugar, calorie-reduced margarine, etc.

4.2.3 Ingredient Claims

4.2.3.1 Stressing Particular Ingredients

It is considered to be misleading to over-emphasize the importance, presence or absence of an ingredient or substance in a food because of its desirable or undesirable qualities, or for any other reason. For example, it is misleading to over-emphasize the presence of wheat germ in breakfast cereal when the amount present is the amount normally found in the grain used in making the cereal. Also, it is misleading to over-emphasize the presence of butter in a cake when butter is actually the minor shortening ingredient.

In principle, any emphasis regarding the presence of an ingredient, component or substance should be accompanied by a statement regarding the amount of that ingredient, component or substance present in the food.

4.2.3.2 Minute or Trace Ingredients

On the label of, or in the advertisement for, a food, it is objectionable to stress, by analytical tables or otherwise, the presence of elements or substances found in minute or trace quantities. Mineral nutrients in trace quantities in foods should not be declared except in the case of mineral water, where no objection would be taken to a statement of the amount of each "**mineral**" present, provided this declaration is not over-emphasized (see Mineral Water and Spring Water, Section 8.6). In addition, no objection is taken to the declaration of mineral nutrients as a percentage of the Recommended Daily Intake in the Nutrition Information label (see Summary of Nutrition Labelling, Section 5.4).

4.2.3.4 Malted

A food is not properly described as "**malted**" simply because malt extract has been added. "**Malted**" means that the carbohydrate has been modified by suitable treatment with the diastase of malt. Unless such treatment has been given, "malt flavoured" is the appropriate term to use.

4.2.4 Negative Claims Pertaining to Absence or Non-Addition of a Substance (revised 1995)

(See also Negative Claims pertaining to Nutritional Characteristics, Section 6.1.6)

A negative statement or claim of this type refers to a statement about:

the absence of a particular ingredient, substance or class of substances in a food because the substance is not inherent to the food;

a substance that is not present in the food either through direct addition or through carry over; or

a substance that has been removed from the final food.

The threshold level is defined as:

zero for allergens (e.g., peanuts, tree nuts, fish, shellfish and eggs);

the level of physiological insignificance in the case of food hypersensitivity agents (e.g., 10 ppm for sulfites); and

the non-detectable limit of an acceptable method, in the case where no physiological threshold has been established.

4.2.4.1 General Principles

Claims to the effect that a food does not contain an ingredient or substance must be factual and not misleading as required by subsection 5(1) of the *Food and Drugs Act* and section 7 of the *Consumer Packaging and Labelling Act*. Generally, a negative statement pertaining to the absence or non-addition of a substance to a food is acceptable under the following conditions:

a) The statement is true

The ingredient, substance or class of substances, claimed to be absent, must be totally absent and must not have been added directly to the food or to any of its ingredients. Where industry wishes to make a negative claim based on a physiological insignificant level, the claim should be justified by means of appropriate research and analytical data to demonstrate the appropriateness of the particular level and that any residual amount of the substance claimed to be absent is below this threshold and is declared on the label.

Rationale: The revision of the guideline to eliminate the differentiation between "**non-addition**" and "**inherently absent**", was done to address the study by the National Institute of Nutrition (Consumer Use and Understanding of Nutrition Information on Food Package Labels, January 1992), which showed consumers do not, in fact, make that distinction. Claims such as "**no preservatives added**", "**contains no preservatives**" and "**not preserved**" are similarly interpreted. The subtle differences in wording therefore are not very useful. The general perception is that consumers wish to know if a substance is present or if it is not, regardless of whether it is intentionally added or is present due to incidental carry-over.

Since physiological insignificant levels for many substances are not well documented, case-by-case assessment will be required. Submissions should be made by industry, with the appropriate literature review and supporting scientific data, to HC and CFIA.

b) The statement is not misleading

i. Factual statements should not give an erroneous impression about the product's composition and quality.

Example: A "**no added water**" claim for a pasta sauce where water has been added indirectly as inherent

water in another ingredient gives an erroneous impression about the product's water content as compared to other pasta sauces. To avoid misrepresentations of this kind, positive (rather than negative) claims should be made, such as "**made from fresh tomatoes**".

ii. A negative statement should not create a false impression that the product is uniquely different from other similar products unless it is further explained. Where the food representing a class of foods is **inherently free** of a substance or where **it is not permitted** by Regulation to contain the substance, a negative claim pertaining to the non-addition or absence of that substance is considered misleading under section 5(1) of the *Food and Drugs Act* unless it is appropriately qualified by a statement to the effect that the claim is not unique to the food but is common to all foods of the same class.

Rationale: If a claim is made as to the absence of a substance from a food where the Regulations do not permit it to be added or where it is inherently absent from the food and all other similar foods of the same class, it infers a **false uniqueness** and gives an unfair advantage to that food. It also infers that other similar foods contain the ingredient or substance claimed to be absent. Recognizing that an absence claim may be beneficial information to individuals who wish to avoid certain substances, negative claims are accepted but only under circumstances which would reduce the potential for misrepresentation. This condition for making negative statements reflects USDA and USFDA labelling policies, Codex standards and comments received on Consultation Document No. 11 of the Review Committee for this Guide.

Examples: A "**no colour added**" claim for wieners suggests that other wieners may contain colour when, in fact, colour is not permitted to be added to wieners. An acceptable claim could be "**No wieners, sold in Canada, contain added colour**". Similarly, non-cola soft drinks could not be labelled or advertised as "**caffeine-free**" (since caffeine is not permitted by Regulation to be added to this food), unless the claim is accompanied by a statement to the effect that "**all non-cola drinks are caffeine-free**", or that a non-cola drink is "**a caffeine-free food**".

Compliance with this policy will be assessed on a case-by-case basis recognizing the increasing concerns regarding food sensitivities and presence of allergens in foods. Undeclared (i.e., carried-over) ingredients or components in a food such as sulfiting agents or peanuts, could be the cause of serious health problems to individuals with sensitivities to specific food ingredients or constituents, particularly when such a food is consumed on the assumption that the allergen or sensitizing agent is not present because it is not declared. In all cases, the onus remains with industry to demonstrate that compliance is met.

4.2.4.2 No Preservative Claims

Claims pertaining to the absence or non-addition of a food class such as "**contains no preservatives**" and "**no preservatives added**" are permitted where none of the preservatives found in Division 16 of the *Food and Drug Regulations* has been directly added or is present due to carry over. For example, it would be misleading to make a "**no preservative**" or "**no preservative added**" claim in bakery products if sodium propionate was added indirectly through a dough-conditioning premix.

No objection is taken to claims for the absence of preservatives when the food contains naturally-occurring constituents which can provide a preservative function as in the case of benzoates in cranberry juice, acetic acid in vinegar and citric acid in lemon juice, etc.

Ingredients such as cultured whey, cultured dextrose, cultured skim milk, etc., can be **specifically manipulated** to contain high levels of peptides and propionic, butyric and lactic acids. These ingredients can act as preservatives. Claims pertaining to the absence of preservatives are not appropriate on foods containing these ingredients.

Traditional preservatives such as **salt and sugar** are exempt from this policy.

Rationale: Non-addition or absence claims pertaining to preservatives are permitted if these statements are factual. In cases where preservatives are present as the result of incidental carry over, even if the amount present is below detectable limits, the claim should not be made.

Example: Ascorbic acid is **added** to apple juice to preserve the colour of the juice during processing and is degraded to very low or insignificant levels. Despite this degradation, this additive has already performed its preservation function, therefore a "**no preservative**" claim is not considered appropriate for the final product.

4.2.4.3 No Preservative Claims for Multi-functional Additives

Certain food additives such as ascorbic acid, acetic acid, citric acid, lecithin and tartaric acid are capable of performing a number of functions. Acetic and tartaric acids may be used as acidulants or anti-microbial agents to preserve a food. Where they are added for reasons other than preservation, and their function is clearly stated in the list of ingredients, a "**no preservatives**" claim is acceptable. If a **non-preserving additive** is carried over into the final food by way of an undeclared component, the claim can still be made and an explanation of its function **need not** be stated.

Rationale: Allowance is provided in the *Food and Drug Regulations* for a food to contain the above substances for functions other than preservation. It is permissible to make an absence or non-addition claim provided the additives were not added for a preservative function, are not present at levels used for preservation, and the functions of the additives are clearly stated in the ingredient list.

Example: Ascorbic acid is a multi-functional additive which is often used in bakery products for its dough-conditioning property at levels of less than 100 ppm. Since ascorbic acid, in this example, is not added for its preservative function, the claim "**contains no preservatives**" is acceptable provided its function is clearly stated, e.g., "**ascorbic acid (dough conditioner)**". Other examples include "**lecithin (an emulsifier)**" and "**citric acid (acidulant)**".

Note: For labelling purposes, **liquid smoke** will not be considered a preservative.

4.2.5 Guarantees

Guarantees referring to the quality of foods are generally acceptable, providing the manufacturer will support the guarantee. If there are conditions under which the guarantee is invalid, such conditions should be stated clearly.

The word "guarantee" is usually associated with an offer to return the purchase price when the consumer is not satisfied with specific characteristics or the performance of a product when these can be readily evaluated (see Testimonials and Guarantees regarding Vitamins and Mineral Nutrients, Section 7.6).

4.2.6 Fresh (revised 1995)

Principles: As for all claims, the use of the term "**fresh**" remains subject to the prohibitions contained in section 5(1) of the *Food and Drugs Act* and section 7 of the *Consumer Packaging and Labelling Act* respecting misleading and deceptive representations for foods.

The context in which the term "**fresh**" is used will generally dictate its meaning. Accordingly, "**fresh**" may be used to describe the nature, the age, the organoleptic qualities of a food or it may be used as part of a trade name or brand name.

4.2.6.1 To Describe the Nature or to Indicate a Lack of Processing

The term "**fresh**" may result in an expectation that the food so described has not been processed or preserved in any way. The claim "**fresh (naming the food)**" should generally be used to describe a food that is not canned, cured, dehydrated, frozen or otherwise processed or preserved. It should, however, be noted that:

Although refrigeration is a means of preserving foods, consumers generally consider refrigerated fruits, vegetables, meats and fluid milk as "**fresh**". The process of pasteurization is not regarded as altering the freshness of milk; consumers recognize that all fluid milk is pasteurized.

Fresh fruits and vegetables that have been refrigerated in controlled-atmosphere storage, irradiated, waxed or washed in a mild chlorine or acid solution may be called "**fresh**".

The term "**fresh**" may be used to distinguish fresh pasta from dehydrated pasta if the "**fresh pasta**" has not been treated by any means other than by refrigeration, vacuum packaging or modified atmosphere packaging.

Meat, including poultry and fish products that have not been treated by any means other than by refrigeration, vacuum packaging or modified atmosphere packaging to ensure their preservation, may be called "**fresh**".

4.2.6.2 To Indicate Age or Recent Preparation

The claims "**fresh (naming the food)**" or "**freshly (naming the process and food)**" are often used to indicate that the food has been recently produced, obtained or grown. While useful indications of freshness, such claims are potentially misleading unless they are accompanied by a "**packaged on**" date or by an explanatory statement as to why the product is "**fresh**".

Recently baked bread and other bakery products, including meat pies, may be described as "**fresh**" regardless of whether the product or its ingredients contain preservatives or are preserved by other means. For example, bread made with frozen dough, pie made with canned fruit and pizza made with frozen dough and preserved meat may be described as "fresh" as a result of recent preparation. Synonymous expressions such as "**fresh baked**", "**freshly baked**", "**oven fresh bread**", "**bakeshop fresh**", "**fresh from the baker's oven**", "**freshly baked in the store**", etc. may also be acceptable claims. The claim should be accompanied by a "**packaged on**" date or a date indicating recent preparation. In the case of broadcast advertising, a specific time (e.g., "**baked fresh daily**") should be included.

While all fresh fruit and vegetables are considered fresh, terms such as "**orchard fresh**", "**valley fresh**", "**garden fresh**" and "**fresh from the field**" or synonymous claims should only be used to describe fresh fruit and vegetables that have been harvested and brought to the market at the earliest possible moment with minimal storage and within days of harvesting. For example, it is considered misleading to advertise or label a package of fruit or vegetables as "**orchard fresh**" if this produce has been subject to months of controlled-atmosphere storage. Similarly, it would be considered misleading to describe apples as "**orchard fresh**" if they were imported apples which has spent five weeks on a freighter before reaching their destination. These could simply be labelled as "**fresh or fresh new crop from (naming the country of origin)**".

Rationale: The terms "**farm fresh**", "**orchard fresh**" and "**garden fresh**" have been used for many years to describe products shipped directly from the farm to the stores or farmers' markets. Imported produce may also be shipped to the store within days of harvesting and hence qualify for terms such as "**fresh from the field**".

The term "**freshly squeezed juice**" or "**fresh daily**" may be used to describe juice that has been recently pressed provided the claim is accompanied by a "**packaged on**" or other date indicating recent preparation.

The term "**freshly ground**" is considered to mean that ground beef/poultry/fish or ground coffee has been recently ground. The claim should be accompanied by a "**packaged on**" or other date indicating recent preparation.

Rationale: Consumers are less likely to be misled if "fresh" claims which imply that a food was obtained or prepared recently, are further qualified with a "packaged on" date.

4.2.6.4 As an Element of Trade Names or Brand Names

Trademarks, company names and fanciful names containing the word "**fresh**" are acceptable provided the term is used, in labelling or advertising, in such a manner that it remains clear to the consumer that "**fresh**" is not a characteristic of the product and that these names represent a brand. The use of "**fresh**" as an element of trade or brand names will be assessed on an individual basis.

4.2.7 Home-made (revised 1995)

The term "**home-made**" describes a food that is not commercially prepared. "**Home-made**" foods do not require further preparation. The use of a brand name or trademark symbol in conjunction with the term "**home-made**" is considered misleading if the food is prepared commercially. Other descriptors will be assessed on an individual basis.

The terms "**home-made style**", "**home-style**", "**like home-made**" may be used to describe a food that may contain mixes, in whole or in part, from commercial or private recipes. In advertising, these terms are potentially misleading when the food is portrayed in a home setting.

The claim "**tastes like home-made**" is left to the judgment of the consumer and is therefore acceptable.

Rationale: "**Home-made**" implies that a food is prepared in a home. Therefore, the use of the term "**home-made**" to refer to a food prepared in a commercial establishment, including small, artisan like establishments, is considered misleading. When a food is prepared in the style of a "**home-made**" food, the term must be qualified.

Example: "**Home-made**" baked beans versus "**home-made style**" canned baked beans.

4.2.8 Nature, Natural

"**Nature**", "**natural**", "**Mother Nature**", "**Nature's Way**" are terms often misused on labels and in advertisements.

Advertisements should not convey the impression that "**Nature**" has, by some miraculous process, made some foods nutritionally superior to others or has engineered some foods specially to take care of human needs. Some consumers consider foods described as "**natural**" of greater worth than foods not so described.

Foods or ingredients of foods submitted to processes that have significantly altered their original physical, chemical or biological state should not be described as "**natural**". This includes such changes as the removal of caffeine. A natural food or ingredient of a food is not expected to contain, or to ever have contained, an added vitamin, added mineral nutrient, artificial flavouring agent or food additive. A natural food or ingredient of a food is also one which does not have any constituent or fraction thereof removed or significantly changed. It should be noted, however, that some food additives, vitamins, and mineral nutrients may be derived from natural sources and may, in some cases where these are added to another food, be regarded as natural ingredients. The acceptable claim, in such cases, is that this food contains "natural ingredients" (see Processes Affecting the Natural Character of Foods, Annex 1).

A food containing an ingredient that cannot, according to the above-stated guidelines, be described as "**natural**", should not itself be described by that term. In many cases, some of the ingredients in a food or the process to which the food or the ingredient has been subjected, may more accurately be described as "**natural**".

In most cases, the claim "**natural**" is synonymous with the claim of "**contains no added food additives, nutrients, flavouring agents, incidental additives or contaminants**" (see Negative Claims Pertaining to Absence or Non-addition of a Substance, Section 4.2.4).

With regard to flavour descriptors, one or more substances, whose function is to impart flavour, derived or obtained by any means whatsoever, from a plant or animal source which describes the flavour, may be claimed to be

"natural". Any additive, such as preservatives and solvents, added to a flavour preparation to have a technological effect solely on the flavour, does not modify the **"natural"** status of the flavouring material itself, but does alter the natural status of the foods to which it has been added even though it need not be declared as an ingredient on the labels of foods to which the flavour preparation is added. In other words, such foods may not be claimed to **"contain only natural ingredients"**.

Furthermore, acids, bases, salts and sweeteners may be used to impart sour, bitter, salty and sweet tastes in conjunction with natural flavours, without altering the **"natural"** status of the flavouring material itself. For example, citric acid is not a flavour but acts only as an acidulant when used in conjunction with natural flavours. Such acids, bases, salts or sweeteners contained in any flavour preparation have an effect on the foods to which the flavour preparation is added and, therefore, the list of ingredients of such foods must declare the acids, bases, salts or sweeteners present by their proper common names.

The status of enzymatic flavours, processed flavours, reaction flavours or nature-identical flavours has not been established under these guidelines. Each one will therefore be examined on a case-by-case basis.

4.2.9 Organic (Revised 1995; Amended 16/02/98)

The use of the term **"organic"**, when applied to a product that has not been produced and handled according to the certification requirements of an independent organic certification body, has the potential to be considered misleading and deceptive under section 5(1) of the *Food and Drugs Act* and section 7 of the *Consumer Packaging and Labelling Act*.

All statements, including the word **"organic"**, such as **"organically grown"**, **"organically raised"**, **"organically produced"**, **"certified organic"** or any other variations or uses of the word **"organic"** are considered to be organic claims.

When a product is labelled **"organic"**, the label of the product should indicate the name or number of the certifying body which has carried out the inspection and has certified that all stages of the production, processing, packaging and distribution of the product in question meet the criteria for organic certification. Food ingredients may be designated as **"organic"**, only if they have been certified in the same manner. The term **"organic"** is not synonymous with such terms as **"pesticide free"** or **"no pesticides"**.

Rationale: The term **"organic"** is used to describe products of **"organic farming"**, one system of farm design and management practice that seeks to create ecosystems which achieve sustainable productivity. As most organic products now find their way to consumers via established trade channels, the opportunity for deceptive practices is greatly increased and a greater transparency of the marketplace is necessary. Organic production is controlled by independent organic certifying agencies both in Canada and abroad.

Although synthetic pest control products are not used in organic agriculture, the claim **"no pesticide"** is not appropriate since there may be a carry-over of pesticides from applications prior to the certification period, or spray drift from neighbouring fields. In addition, a limited number of pesticides are approved for use in **"organic"** production.

Note: The Canadian Organic Advisory Board (COAB), with the assistance of the Canadian General Standards Board (CGSB), is in the process of developing a National Standard for Organic Agriculture. The COAB is also in the process of developing an accreditation system designed to ensure adherence to the standard. For further information regarding the establishment of the National Standard and the corresponding accreditation system, names or numbers of independent certification bodies or other information on organic products, contact:

Canadian Organic Advisory Board

c/o Mr. Gordon Hamblin

Box 135 Qu'Appelle, Sk.

S0G 4A0

Tel. (306) 699-2402

Copies of the standard may be obtained from:

Canadian General Standards Board

Public Works and Government Services Canada

Ottawa, Ontario

K1A 1G6

Tel: (819) 956-0425 or 1-800-665-2472

4.2.10 Pure, 100% Pure, 100%, All (Amended 27/08/96)

The term "**pure**" should not be used on the labels of, or in connection with, an article of food that is a compound, mixture, imitation or substitute. The above prohibition appeared in the *Food and Drugs Act* before 1952. Although no such regulation exists today, consumers still expect a food described as "**pure**" or "**100% pure**" to be uncontaminated, unadulterated and to contain only substances or ingredients that are understood to be part of the food so described.

If the terms "**100%**", "**pure**" or "**100% pure**" describe a food that carries the name of what would seem to be a single-ingredient food, then it would be misleading to use this term to describe that food when the food also contains other ingredients. For example, consumers do not expect a product described as "**100% pure corn oil**" to contain any substance other than corn oil. It should not contain any preservatives, antifoaming agents or colour even though the standards may permit them. In some cases, this claim is considered to be synonymous with the claim "contains no preservatives" (see No Preservative Claims, Section 4.2.4.2 and No Preservative Claims for Multi-functional Additives, Section 4.2.4.3).

The term "**pure**" or "**100% pure**" can be used to modify an ingredient name appearing in the common name of a food such as "**pure vegetable oil**" or "**pure vegetable oil margarine**", or the claim can be worded so as to refer specifically to a named ingredient in the food. In such cases, it is the named ingredient that should meet the guidelines mentioned above and there must be no implication that it applies also to the food. For example, the claim "**made with pure corn oil with added preservative**" implies that the corn oil used was pure before the preservative was added.

Consumers expect that a product described as "**100% pure pork sausage**" would contain only meat originating from hogs and that the pork portion would contain no additives or contaminants.

Products that are not single-ingredient foods should not be described as "**100%**", "**pure**" or "**100% pure**", for example, the claim "**100% pure sausage**" is unacceptable.

In a few cases, however, it may be possible to describe a standardized multi-ingredient food as "**pure**" on condition that none of the optional ingredients permitted by that standard are added to the food, and on condition that the common name allowed and used to describe the food includes the names of all the ingredients of the food. For example, "pure sweet milk chocolate" would be expected to be made only with pure sugar, pure fluid whole milk and pure chocolate.

For reconstituted orange juice, "**pure**" or "**100% pure**" can be used on the label of the reconstituted product to describe the product if only water has been added to the concentrate. "**Pure**" or "**100% pure**" cannot be used on the label of a reconstituted product if any optional ingredient such as sodium benzoate, sugar, colour, vitamin C, etc., is incorporated into the concentrate.

In all cases, the terms "**all**", "**pure**" or "**100% pure**" should be used with care. If these terms are used in such a way as to imply that other similar products are adulterated or not up to standard, then the use of these terms would

4.2.11 Entirely, Completely, Absolutely

Although these terms are redundant in the context of their normal usage, they may nevertheless alter the meaning of statements and claims. Claims may be made when the food meets legislated criteria (which usually recognize a tolerance). However, when such claims are modified by these terms, the tolerance, in effect, ceases to exist. For example, "**made entirely in Canada**" means that no imported sugar may be used to make a candy so described.

4.2.12 True, Real, Genuine (*revised 1995*)

Terms such as "**true**", "**real**", "**genuine**" and the like should be used with care. Such terms should not be used to describe foods or ingredients which are imitations or substitutes, nor should they be used in a manner which suggests that any product is an exclusively true, real or genuine article.

4.2.13 Imitations, Substitutes

The terms "**imitation**" and "**substitute**" may be used to describe a food. Certain foods are described as "**imitation (naming the food imitated)**" or "**(naming the food) substitute**". In advertising, the descriptive word "**imitation**" or "**substitute**" is required to appear as part of the common name. An imitation food resembles the food imitated in flavour, texture, appearance and nutritional value while a substitute food is not required to physically resemble the product replaced. It should, however, have the nutritional qualities of the food for which it is a substitute. In the advertisement of imitation or substitute foods, the foods should be promoted on their own merits and should not highlight the qualities of the foods they replace, unless they also have these qualities.

Many foods that are imitations of or substitutes for another food are described by coined names. These names should not make use of words or expressions that might lead the consumer to conclude that the imitation or substitute is the genuine food.

4.2.14 Concentrated, Concentrate, Condensed, Strength, Reconstituted

These terms should be restricted to their correct usage and should not be employed in a manner that would imply nutritional superiority. In general, the terms "**concentrated**", "**concentrate**" or "**condensed**" may be used to describe products still in the liquid state after a substantial amount of water has been removed. The terms "dehydrated", "dried" or "**powdered**" are more appropriate when the removal of the water results in a product that is no longer in a liquid state. "**Condensed milk**" and "**powdered milk**" are examples of correct usage.

A claim that a food is "**concentrated**" or "**condensed**" and a statement pertaining to "**strength**" should be made only when there is a recognized standard with which to compare the product. "**Concentrated orange juice**" or "**double strength vinegar for manufacturing purposes**" are examples of correct usage. Foods restored to their original moisture content should be described as "**reconstituted**" or as "**made from concentrate**". These terms should be part of the common name of these products. Dehydrated fruits and vegetables and products such as soup mixes or bases are not regarded as "**concentrates**" or as being concentrated. A manufactured product, requiring dilution as directed on the label before it is in a form ready to be consumed, may be described,

under special circumstances, as "**concentrated**", "**concentrate**" or "**condensed**", even though no water has been removed during processing. Products such as concentrated liquid infant formula and condensed soup fall within this category.

Some common names, by definition, have a connotation of "**concentration**" or "**strength**". Such names should not

be further modified by words such as "**concentrated**" or "**condensed**". For example, instant coffee or instant tea should not be further

described as being concentrated. Similarly, syrups are better described by a declaration of the actual amount of sugar present rather than by the terms "concentrated" or "**strong**" that are much less informative.

A product is not necessarily "**strong**" or "**concentrated**" because it contains a relatively large amount of one constituent. A pudding, for example, is not "concentrated" merely because its new formula now calls for 15 percent milk solids instead of 5 percent. Nor is cheese a "**concentrated milk**" just because it is made from milk.

A powdered product is not a concentrate solely because it has been made to occupy less volume than the similar product it replaces. There can be no effect of concentration when, based on mass, the same amount of each product is needed to reconstitute or prepare for normal use. Agglomerated instant coffee, for example, is not "**concentrated instant coffee**".

4.2.15 Claims Regarding Grades

Grade names and standards have been established for food products such as butter, milk powder, eggs, fresh and processed fruits and vegetables, honey, maple products and beef carcasses, under the authority of the *Canada Agricultural Products Act*, the *Meat Inspection Act* and various provincial acts. These grade names must be declared in advertisements when a price is declared and more than one grade of the food is available at retail. Grade names must not, however, be used to describe products which have not been graded.

The actual grade names vary from one type of product to another, for example, "**Canada No. 1**", "**Canada A**" and "**Canada Fancy**". It is illegal to describe products by an improper grade designation or by any words or symbols that could be mistaken for a legally-established grade description.

Since grades have not been established for retail meat cuts, advertisements may include only an indication of the grade of carcass from which the retail cut was derived, if they include the words "**cut from**" or other words which do not give the impression that the retail cut was graded.

In cases where a food product is imported, the grade assigned to the product by a grading authority established under the laws of the country from which the food was imported, may be used in any advertisements for that product.

Note: The label of a meat product which has been health inspected and passed for human food must be marked with the meat inspection legend established under the federal *Meat Inspection Act*. This legend, in the form of the word "**Canada**" within a circle or an ellipse, is not an indication of grade or that the product has been graded.

4.2.16 Kosher Foods (*Amended 27/08/96*)

Kosher, which means fit or proper, describes foods and practices that are specifically permitted by Jewish dietary laws. Certification that a food is processed in accordance with the requirements of the Kashruth is made by a Rabbi or Rabbinical organization and identified by the appropriate Rabbi or Rabbinical organization symbol.

In the labelling, packaging and advertising of a food, section B.01.049 of the *Food and Drug Regulations* prohibits the use of the word kosher or any letter of the Hebrew alphabet, or any other word, expression, depiction, sign, symbol, mark, device or other representation that indicates or that is likely to create an impression that the food is kosher, if the food does not meet the requirements of the Kashruth applicable to it.

The terms "**kosher style**" and "**kind of kosher**" are not allowed, unless they meet the requirements of the Kashruth.

"**Jewish-style food**" or "**Jewish cuisine**" are not objected to under section B.01.049, although the foods may not necessarily meet the requirements of the Kashruth.

Rationale: "Kosher style" is considered to create the impression that the food is kosher under section B.01.049, and therefore the food must meet the requirements of the Kashruth. **"Jewish style"** food may not necessarily create this impression.

4.3 Quantity and Origin

4.3.1 Net Contents

Claims such as **"big litre"**, **"jumbo litre"** and **"full litre"** should not be used, since they contravene paragraph 7(2)(a) of the *Consumer Packaging and Labelling Act* which prohibits any qualification of the declared net quantity of a prepackaged product.

4.3.2 Imported, Product of Canada, Made in Canada, Country of Origin

When a food product is described as **"imported"**, it is understood that the food, as a unit, has been brought into Canada from another country and is sold in Canada without modification to the food itself.

Exceptions to this general ruling are provided for in the *Food and Drug Regulations*, and include imported Scotch whisky, Irish whisky, rum and brandy. These products may be sold as imported products when specific processing is done in Canada, namely blending with other imported named spirits, adjustment of the alcohol strength with distilled water or other purified water, and standardization of colour with caramel addition. When a food contains a mixture of imported and domestic ingredients, only the imported ingredients may be described as being imported.

Both **"made in Canada"** and **"product of Canada"** imply that the food was manufactured in this country. However, these statements do not necessarily mean that **all of the ingredients** used are domestic.

It is possible, at least in some instances, to use more appropriate and explicit terms than **"made in Canada"** to describe the process that the food has undergone. For example, **"roasted and blended in Canada"** to describe coffee since the coffee beans are always imported; **"fermented and bottled in Canada from Canadian and imported grapes"** to describe wine when more than 25 percent of the grape juice or the grapes are imported; **"packaged in Canada"** to describe food which is imported in bulk and packaged in Canada; **"processed in Canada"** to describe a food such as peanut butter when the peanuts are imported. Advertisers are encouraged to use more explicit terms such as these instead of simply **"made in Canada"**. The term **"made in Canada"** should not be used to describe foods when it is only the label or container that is made in Canada.

Finally, according to the *Consumer Packaging and Labelling Regulations*, subsection 31(2), if a prepackaged product has been wholly manufactured or produced in a country other than Canada, and the identity and principal place of business of the person in Canada for whom the prepackaged product was manufactured or produced for resale appears on the label, then the identity and principal place of business shall be preceded by the words **"imported by"** or **"imported for"**, unless the geographic origin of the product is stated on the label grouped with, or adjacent to, the Canadian name and address.

4.3.3 Geographical Terms

The use of geographical adjectives and illustrations indicates that the foods are bona fide products of the place named or shown, except in cases in which the geographical term has lost its significance, e.g., hamburg steak, Spanish onion, Boston beans.

When the foods do not originate from the place named or illustrated and when such descriptions may be considered deceptive or misleading, the product should be advertised in such a way as to remove any possible deception. For example, if city, region or country names are used to describe products that do not originate from the place mentioned, these names should be accompanied by a qualifier such as "style" unless the information provided clearly indicates the geographical origin.

4.3.3.1 Alcoholic Beverages

For information on the indication of country of origin on alcoholic beverages, refer to the "Guide to the Labelling of Alcoholic Beverages" Annex in Section VIII of this Guide.

4.3.4 National Symbols

The use of the Canadian Coat of Arms and the Canadian Flag are both protected under the *Trade-marks Act*, section 9(1).

a) Coat of Arms

The Canadian Coat of Arms cannot be used, unless permission is granted by the Department of Canadian Heritage. Requests for permission can be made to:

Mr. Jean-Paul Roy, Manager
Ceremonial and Canadian Symbols Promotion
Department of Canadian Heritage
Ottawa, Ontario, K1A 0M5
Fax (819) 997-8550

b) National Flag

The national flag with the 11-point maple leaf and one or two bars cannot be used unless permission for its use is granted by the Department of Canadian Heritage (see address above). There is however, no objection to the use of an 11-point maple leaf without bars.

The maple leaf should not be used on an imported food product to give the consumer the false impression that it is of domestic origin.

STANDARDS

CHWTA proposes to adopt the above sections with respect to claims as to composition, quality, quantity and origin.
