



December 16, 2002

Dockets Management Branch  
Food and Drug Administration  
5630 Fishers Lane, Room 1061  
Rockville, MD 20852

Re: Docket No. 94P-0036: *Food Labeling: Trans Fatty Acids in Nutrition Labeling, Nutrient Content Claims, and Health Claims, Reopening of the Comment Period*

To Whom It May Concern:

On behalf of the American Meat Institute (AMI or the Institute) thank you for the opportunity to comment on the proposed rule, “Food Labeling: Trans Fatty Acids in Nutrition Labeling, Nutrient Content Claims, and Health Claims, Reopening of the Comment Period.” AMI is the nation’s oldest and largest trade association representing packers and processors of beef, pork, lamb, veal, turkey, and processed meat products. Our member companies produce more than 90 percent of these products in the U.S. AMI members support accuracy in labeling and the inclusion of facts that help consumers to make informed purchasing decisions. AMI submitted comments in opposition of FDA’s proposal to label trans fatty acids (hereafter TFAs) on April 17, 2000. In the comments, AMI stated, “the minimal consumption of trans fatty acids, an average of 2.91 percent of energy intake by the agency’s estimation, does not warrant a mandatory nutrition labeling policy.” The Institute maintains this position and recommends that FDA remove the proposed footnote from any final regulation mandating labeling of TFAs on product labels.

#### **Asterisk and Footnote**

The revised proposal indicates that FDA intends to require manufacturers to label TFAs under the amount and percent of Daily Value (% DV) declared for saturated fats on the Nutrition Facts panel upon issuance of the final regulation. In addition, FDA is proposing that when TFAs are included in the Nutrition Facts panel a footnote would be

included stating, "Intake of trans fat should be as low as possible." AMI agrees that consumers should be provided with factual information that enhances their ability to make informed purchasing decisions. However, should FDA mandate labeling of TFAs, we contend that placing TFAs on a separate line in the panel underneath total fat accomplishes this goal. Further, utilizing the Nutrition Facts panel as an educational tool is inappropriate.

According to the proposal, FDA believes that "In the absence of a % DV for trans fat, the footnote statement will provide guidance to consumers when using the quantitative information to help maintain healthy dietary practices." AMI disagrees with this assertion. Providing consumers with a vague recommendation, "Intake of trans fat should be as low as possible" does little to help them choose and maintain a healthy diet. What does FDA mean by "low?" Low compared to what value? How are consumers to translate "low" into a quantitative number that may be used when choosing foods?

### **Purpose of the Nutrition Facts Panel**

The Nutrition Facts panel is designed to provide consumers with facts related to the nutritional contributions of a food product. The panel is not designed as an educational tool for teaching consumers how to eat healthfully. The Dietary Guidelines for Americans and the Food Guide Pyramid (hereafter "the Guidelines" and "the Pyramid") **are** tools that have been developed and used to convey healthy eating messages to consumers.

According to the Nutrition Labeling and Education Act of 1990, declaration of nutrients must "be conveyed to the public in a manner which enables the public to readily observe and comprehend such information and to understand its relative significance in the context of a total daily diet." The U.S. Department of Agriculture (USDA) and the FDA have depended upon the Pyramid and the Guidelines to teach consumers how much sodium, calcium, iron, other vitamins and minerals should be consumed to maintain a healthy diet. Traditionally, the FDA and USDA **have not** utilized the Nutrition Facts panel to educate. Doing so would set a new precedent in food labeling. Including this type of information in a footnote in the Nutrition Facts panel is inappropriate and may be viewed as a warning label by consumers.

### **Voluntary Labeling Guidelines for Manufacturers Desiring to Label Trans Fats**

AMI opposes FDA's willingness to "consider the exercise of our enforcement discretion for such [trans fat] labeling as long as the footnote statement is also included in the Nutrition Facts panel." FDA should finalize labeling requirements through rulemaking prior to allowing companies to label products with trans fat declarations. Changing labeling requirements through rulemaking, after companies have begun to

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voluntarily label products, is costly for companies and has the potential to confuse consumers. AMI strongly recommends that FDA disallow voluntary labeling of trans fats until all comments on the proposal are reviewed and a final regulation is issued.

**Concluding Remarks**

AMI recommends that the agency remove the footnote from the proposed rule and focus on educating consumers on trans fats through use of the Guidelines and other educational programs. Additionally, the Institute suggests that FDA thoroughly review comments on the proposal and issue a final rule prior to allowing companies to label food products with trans fat content.

Sincerely,

Lynn L. Kosty  
Director, Regulatory Affairs