

## **REGULATIONS RELATING TO THE LABELLING AND ADVERTISING OF FOODSTUFFS**

### **GOVERNMENT NOTICE NO R.642 OF 20 JULY 2007 PUBLISHED UNDER THE ACT FOODSTUFFS, COSMETICS AND DISINFECTANTS ACT, 1972 (ACT 54 OF 1972)**

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#### Preamble

In pursuance of the avowed objective of the draft regulations on food labelling and advertisements to empower people to make healthy food choices, the DOH should obtain a commitment from the departments at all three/four levels of government, which deal with trade, industry, agriculture, transport, recreation, and education, in support of the creation of a physical, social, commercial and media environment<sup>1</sup> in which choice can be exercised. The participation of the food industry and the farming and commercial sectors will be necessary to ensure that affordable, healthy food options are available for people. Food security with sustainable, local, small and medium farming and retail enterprises (farmers' markets) and easy access to a variety of food outlets are also part of the context. The state should be pro-active in interacting with all role-players to ensure the successful implementation of the draft regulations and to promote their positive social, economic and environmental ramifications.

The challenge is for food labels and advertisements to promote a nutritious, appropriate, adequate, safe and affordable diet for everybody within an evolving knowledge base, at the same time as the food industry, the farming and commercial sectors and the environment develop and grow in a sustainable manner in the short, medium and long-term. From this perspective the draft legislation should be more than a regulatory mechanism. It should be an important contributor of accurate and accessible informal education and a motivational instrument for the production, processing, distribution and sale of healthy food.

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<sup>1</sup> Childhood Obesity. Food Advertising in Context. Children's food choices, parents' understanding and influence, and the role of food promotions. July 2004. Ofcom (Office of Communications, regulator for the UK communications industries) [www.ofcom.org.uk](http://www.ofcom.org.uk)

In this submission I consider the following issues:

1. definitions
2. guidelines
3. review and advisory body
4. enforcement mechanisms
5. differences between labels and advertisements
6. appearance and format of displays
7. language
8. mandatory display items
9. claims
10. voluntary display items
11. exemptions

## 1. Definitions

### 1.1 working definition of healthy and unhealthy food

It is helpful to have a working definition of healthy and unhealthy food. My proposed definitions are premised on the following. All food is healthy except food that contains substances that have been shown to be harmful. This applies to substances which are harmful only in high concentration as well as to substances which may be harmful even in low concentration to everybody or only to susceptible individuals. The suggested definitions are:

“healthy food” means food that does not contain substances that have been shown or are known to be harmful. This applies to substances which are harmful only in high concentration and to substances which may be harmful even in low concentration to everybody or only to susceptible individuals.

“unhealthy food” means food that contains substances that have been shown or are known to be harmful. This applies to substances which are harmful only in high concentration and to substances which may be harmful even in low concentration to everybody or only to susceptible individuals.

For the definitions to be usable, the harmful substances will have to be listed in detail. The list will have to be modified as new evidence becomes available and is evaluated. Provision is made in the comments below for a body to attend to this.

## 1.2 review of the definitions in the draft regulations (regulation 1)

The definitions in the draft regulations often differ from those in the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act 54 of 1972) and in earlier regulations within the Act. Consideration should be given to using the earlier definitions provided that the meaning has not changed substantially. Words in common usage need not be defined and should be deleted as should words that are not in the text. Some definitions need to be edited. A few new definitions should be added.

Below are my suggested alternatives, deletions, modifications, and additions. Sources are referenced. Deletions are in square brackets and “scratched” and insertions are in italics. Where the edits are extensive, the definitions have been re-printed without the edit markings below the edited version. The format of the lists of alterations and additions have been changed with the noun in alphabetic sequence and not the adjective, eg additive, nutritional and not nutritional additive. This system is recommended for the final version.

### a. preferred alternatives - from other sources:

**"carbohydrates"** means the polyhydroxy aldehydes or ketones and alcohols, their simple derivatives and their polymers having linkages of the acetal type and are classified as [~~sugars~~] *mono and di-saccharides (1 and 2 saccharide units, commonly referred to as sugars and sugar alcohols), oligosaccharides (3 – 10 units – no common designations) and polysaccharides (>10 units, commonly referred to as starches and fibre, according to their linkages and properties);*<sup>2</sup>

**“certification”** is the procedure by which official certification bodies, or officially recognized certification bodies, provide written or equivalent assurance that foods or food control systems conform to requirements. Certification of food may be, as appropriate, based on a range of inspection activities which may include continuous on-line inspection, auditing of quality assurance systems and examination of finished products;<sup>3</sup>

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<sup>2</sup> Regulations Relating to Labelling and Advertising of Foodstuffs; Government Notice No R.1055 of 8 August 2002

<sup>3</sup> Principles for Food Import and Export Inspection and Certification. Codex. CAC/GL 20-1995

“**Codex**” [(Codex Alimentarius) means the food code and is a collection of internationally adopted food standards, codes of practice, guidelines, definitions and other recommended instruments presented in a uniform manner; <sup>4</sup>

**date: "sell by"** means the date indicating the end of the estimated period after which the foodstuff shall not be offered for sale;

**"fatty acids, trans"** or **"trans fats"** means fats constituted from the isomers of unsaturated fatty acids in which the double bonds between carbon atoms are in the trans rather than the cis position, resulting in a straighter, less kinked shape. Trans fats are less fluid and have a higher melting point than the equivalent cis fats; <sup>5</sup>

**"fats, trans, natural"** or **"natural trans fats"** mean trans fats constituted from trans fatty acids that occur naturally in the milk and body fat of ruminants and include conjugated linoleic and vaccenic acids; <sup>5</sup>

**"fats, trans, artificial"** or **"artificial trans fats"** means trans fats constituted from trans fatty acids that result when unsaturated fatty acids are partially hydrogenated industrially<sup>5</sup>, or when oil is heated to a temperature above 240°C for more than 30 minutes as during heat extraction, bleaching, deodorising and deep frying;

**"foodstuff"** means any article or substance [except a drug as defined in the Drugs Control Act, 1965 (Act 101 of 1965) ordinarily eaten or drunk by man or purporting to be suitable, or manufactured or sold, for human consumption, and includes any part or ingredient of any such article or substance, or any substance used or intended or destined to be used as a part or ingredient of any such article or substance; <sup>6</sup>

**"label"** means any written, printed, graphic or other descriptive matter that is attached to a container of food, accompanies food, or is displayed near food, including that for the purpose of promoting its sale or disposal; <sup>7</sup>

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<sup>4</sup> Codex Alimentarius Commission. Joint FAO/WHO Food Standard Commission. [www.codexalimentarius.net](http://www.codexalimentarius.net).

<sup>5</sup> Trans fat. Wikipedia. last modified 5 December 2007

<sup>6</sup> Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act 54 Of 1972)

<sup>7</sup> Codex Standards 1-1985, Rev 1-1991

b. recommended deletions:

non-technical words in common usage with acceptable dictionary definitions:

anti-oxidant, approve, audit, certification programme, clean, safe and sound, comparative claim, endorse, flavour enhancer, food constituent, foodstuffs for catering purposes, food vending machine, health claim, honey, ingredient, irradiation, main ingredient, nutrient, nutrient content claim, nutrition claim, poultry, preservative, pressurised container, prevention of disease, reduction of disease risk claim, serving, single ingredient agricultural commodities, starch, substance, substantial transformation, total carbohydrates, traceable/traceability/ product tracing, and tree nuts.

words and phrases which do not or would not<sup>8</sup> appear in the text:

cross-sectional study, date of durability, enhanced function claim, enrichment, evidence-based nutrition, food vehicle, function claim, glycaemic Index, glycaemic load, intervention study, MDR, meta-analysis, observational study, omega-3 fatty acid, prebiotics, probiotics, prolamins, randomised controlled trial, and synbiotic,

c. recommended modifications:

**“additive, food”** means any substance not normally consumed as a foodstuff by itself and not normally used as a typical ingredient of the foodstuff, whether or not such substance has nutritive value, *which is intentionally added to* a foodstuff for a technological *or other* purpose in the manufacture, processing, preparation, treatment, packing, packaging, transport or storage of such foodstuff *and which* results or may reasonably be expected to result (directly or indirectly) in such a substance or its by-products becoming a component of or otherwise affecting the characteristics of such foodstuff, *including bulking agents and* any substance added to foodstuffs for maintaining or improving nutritional qualities [~~excluding any contaminant~~];

**"address"** means an address in the Republic of South Africa and includes the *name and number of the street, road, avenue, or lane, as the case may be, the name of the city, town, or village and, in the case of a farm, the name or number of the farm and of the municipal area* in which it is situated;

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<sup>8</sup> as they would not be needed if my recommendations are followed.

**"catering establishment"** means any establishment including a vehicle or a fixed or mobile stall where, in the course of business, foodstuffs are prepared or sold for on-site consumption or as take-aways;

**"cereal"** means ~~[a product]~~ *the food crop* derived from the *edible* fruit of *the Triticum (wheat) members* of the family Poaceae;

**"certifying organisation"** means an organisation performing certification through a *system of prescribed rules and procedures*;

**"confectionary, chocolate"** means any foodstuff that contains chocolate ~~[as it is described in Codex]~~ and which is meant to be consumed as a ~~[sweet]~~ snack;

**"confectionery, sugar"** means any foodstuff which is ready for consumption without further preparation and of which a *sugar* ~~[carbohydrate sweetening matter]~~ is a characteristic ingredient, and includes sweetened liquorice, chewing gum and meringues, but does not include ~~[any chocolate or]~~ flour confectionery, edible ice, table jellies or sugar, and which may contain non-nutritive sweetening agents;

**"chilled" or "refrigerated"** means stored at any temperature ranging from 0°C to 7°C ~~[, as appropriate for the specific type of product]~~;

**"claim"** in relation to a foodstuff or *food additive* ~~[nutritional supplement]~~ means any ~~[written, pictorial, visual or other descriptive matter or verbal statement, communication]~~ representation or reference ~~[brought to the attention of the public in any manner]~~ including a trade name or brand name *which states, suggests or implies that a foodstuff has particular characteristics relating to its origin, nutritional properties, nature, identity, composition, ingredients, production, manufacture, processing, durability or any other quality;*<sup>9</sup>

**"claim"** in relation to a foodstuff or food additive means any representation or reference including a trade name or brand name which states, suggests or implies that a foodstuff has particular characteristics relating to its origin, nutritional properties, nature, identity, composition, ingredients, production, manufacture, processing, durability or any other quality; <sup>9</sup>

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<sup>9</sup> Words and phrases in italics from: Codex General Guidelines On Claims. CAC/GL 1-1979 (Rev. 1-1991)

**“colourant”** means an additive described as such in the Regulations Relating to Food Colourants *which adds or restores colour in a foodstuff and includes any natural component of a foodstuff or a natural source as such not normally consumed as a foodstuff and not normally used as a characteristic ingredient of a foodstuff but added to a foodstuff for the purpose of colouring, and includes the synthetic equivalent of any natural colourant provided it is chemically identical to the pure colour principle of the natural colourant,*<sup>10</sup>

**"best before" or "best before end" or "best consumed before"** means the date indicating the *estimated* end of the period under ~~[any]~~ stated storage conditions as ~~specified on the label by the manufacturer during which the product will remain fully marketable, edible and safe and will retain any specific qualities for which tacit or express claims have been made~~ *its characteristic properties;*

date: "best before" or "best before end" or "best consumed before" or "BB" means the date indicating the estimated end of the period under stated storage conditions during which the foodstuff will retain its characteristic properties;

**"date: use by"** means the date ~~[which signifies]~~ indicating the end of the *estimated* period ~~[of durability]~~ under ~~[the]~~ stated storage conditions ~~[as specified on the label by the manufacturer]~~, after which the *foodstuff* ~~[product probably will not have the quality attributes normally expected by consumers and after which date the food]~~ should not be regarded as safe *and suitable* for human consumption

date: “use by” means the date indicating the end of the estimated period under stated storage conditions, after which the foodstuff should not be regarded as marketable or safe and suitable for human consumption;

**"fat or [lipid] oil"** means the total amount of chemically extractable *edible* fat or oil ~~[including phospholipids]~~ as determined ~~[according to the [appropriate extraction method for animal and plant fats as described in the Guidelines [2] in a reputable laboratory.~~ Fat is nominally solid at room temperature while oil is a fat that is nominally liquid at room temperature. Fats and oils consist predominantly of triglycerides and contain very little water.

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<sup>10</sup> Regulations Relating to Food Colourants. Government Notice No R.1055 of 3 September 1999

"fat or oil" means the total amount of chemically extractable edible fat or oil as determined in a reputable laboratory. Fat is nominally solid at room temperature while oil is a fat that is nominally liquid at room temperature. Fats and oils consist predominantly of triglycerides and contain very little water.

"**fibre, dietary**" *in relation to a foodstuff* means [~~intrinsic plant cell wall polysaccharides~~] *edible plant and animal material not hydrolysed by the endogenous enzymes of the human digestive tract as determined by the agreed upon method;*<sup>1</sup>

"**flavourant**" means a natural, nature-identical or artificial flavouring substance or preparation in concentrated form, with or without solvents or carriers, which is not intended to be consumed directly, but which is used in foodstuffs to impart a particular taste or aroma *and is regarded as an additive;*

"**fortification**" means the addition of one or more [~~micronutrient(s)~~] *substance(s)* to a foodstuff identified by [...] *relevant regulations* <sup>11, 12</sup> *under the Act*, whether or not the [~~micronutrient~~] *substance* is normally contained in the food, for the purpose of preventing or correcting a [~~demonstrated~~] *nutritional deficiency* [~~of one or more nutrients in the general population of and/or persons in South Africa as determined by the Department~~];

"fortification" means the addition to a foodstuff of one or more substance(s) identified by relevant regulations <sup>11, 12</sup> under the Act, whether or not the substance(s) is normally contained in the food, for the purpose of preventing or correcting a nutritional deficiency;

"**gluten**" means the protein [~~fraction from~~] *present in high concentration in wheat* <sup>13</sup> [~~rye, barley, oats or other cereals of all *Triticum* species and their~~] *and its crossbred varieties and derivatives and in low concentration in rye, barley, oats or other cereals* [~~thereof, to which some persons are intolerant and that is insoluble in water and 0,5M NaCl and of which the method of analysis is stipulated in these regulations and the Guidelines~~] *and which is measured in a reputable laboratory;*

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<sup>11</sup> Regulations Relating to the Fortification of Certain Foodstuffs Regulation; Government Notice No R.504 of 7 April 200)

<sup>12</sup> Regulations Relating to Food-grade Salt; Government Notice No R.114 of 10 February 2006

<sup>13</sup> Wheat is the only member of the *Triticum* species according to US Dept of Agriculture - Technical Bulletin 1287



"gluten" means a protein present in high concentration in wheat <sup>13</sup> and its crossbred varieties and derivatives and in low concentration in rye, barley, oats or other cereals and which is measured in a reputable laboratory;

**"Guidelines"** *in relation to the Regulations* means a set of rules ~~[guidelines]~~ within the Regulations as determined ~~[from time to time]~~ by ~~[the Director-General in terms of these regulations]~~ the review and advisory body established under the Act to advise the Minister;

"Guidelines" in relation to the Regulations means a set of rules within the Regulations, as determined by the review and advisory body established under the Act; [see below]

**"health practitioner"** means any ~~[medical or dental practitioner, psychologists or other person who carry on a supplementary health]~~ person who is registered to provide a service according to the Health Professions Act, 1974 (Act 56 of 1974) or the Allied Health Professions Act, 1982 (Act 63 of 1982);

"health practitioner" means any person who is registered to provide a service according to the Health Professions Act, 1974 (Act 56 of 1974) or the Allied Health Professions Act, 1982 (Act 63 of 1982);

**"liquid medium"** means water, ~~[or]~~ aqueous solutions of sugar or salt, ~~[or]~~ fruit and vegetable juices ~~[in canned fruits and vegetables only, or]~~, alcohol beverages ~~[in the case of typical traditional South African dishes]~~, ~~[or]~~ vinegar, or oil, either singly or in combination;

**"main panel"** means that part of the label that bears the brand or trade name of the product ~~[in greatest prominence or any other part of the label that bears the brand or trade name in equal prominence];~~

**"manufacturing practice, good"** means, ~~[that]~~ a combination of manufacturing and quality control procedures aimed at ensuring *that food is not contaminated or spoilt during the manufacturing process* and that products are consistently manufactured to their specifications;

**"meat"** means the ~~[safe, clean and sound]~~ skeletal musculature of any ~~[healthy food]~~ animal *that is normally eaten*, including game and birds ~~[species]~~, *but excluding fish*, with or without fat, connective tissue, lymphatic and nervous tissue, bone and cartilage, blood

vessels and residual blood, scraped skin (pigs), and defeater skin (poultry) that are naturally associated with the skeletal musculature of the dressed carcass and head, excluding mechanically recovered meat;

**"meat, fresh processed"** means raw meat products ~~[from all species of meat animals and birds that have undergone a process of the addition]~~ to which marinades, sauces or basting solutions containing water *have been added*, either by injecting, massaging, tumbling or soaking, ~~[but not]~~ without further processing except packaging;

**"name"** *in relation to a foodstuff* means a word or words giving a description ~~[of the nature]~~ of the foodstuff ~~[product concerned]~~, sufficiently precise to avoid misleading ~~[or confusing]~~ the consumer ~~[in regard to the true nature, physical condition, type of packing medium, style, condition and type of treatment it has undergone]~~ and to enable such ~~[product]~~ foodstuff to be distinguished from ~~[products]~~ foodstuffs with which it could be confused, *provided that where a name or names has or have been established for a food in a Codex Alimentarius Standard, at least one of these names shall be used;*<sup>1</sup>

"name" in relation to a foodstuff means a word or words giving a description of the foodstuff, sufficiently precise to avoid misleading the consumer, and to enable such foodstuff to be distinguished from foodstuffs with which it could be confused, provided that where a name or names has or have been established for a food in a Codex Alimentarius Standard, at least one of these names shall be used;<sup>1</sup>

**"chemically extracted"** in terms of oil manufacturing means ~~[using one or more of the following processes degumming, refining, bleaching and deodorizing and the oil contains no traces of chemical solvents]~~ the extraction of oil with a chemical solvent;

"oil, chemically extraction of" means the extraction of oil with a chemical solvent;

**"oil, cold-pressed"** ~~[in terms of oil manufacturing,]~~ has the same meaning as ~~[mechanically]~~ first pressed oil;

"degumming" in terms of oil manufacturing means the removal of phospholipids including lecithin, true gums, protein-like compounds, polysaccharides, chlorophyll, ~~[calcium, magnesium, iron, copper and other nutrients]~~ and other biologically active substances from unrefined oils through *the application of external heat of about 60°C [(140°F) with]* in the presence of water and phosphoric acid;

"oil, degumming of" means the removal of phospholipids, true gums, protein-like compounds, polysaccharides, chlorophyll and other biologically active substances from unrefined oils through the application of external heat of about 60°C in the presence of water and phosphoric acid;

**"deodorise"** [~~in terms of oil manufacturing means the process during which~~] the oil is steam-distilled under pressure at a high temperature of between 240 to 270°C [(464 to 518°F)] for 30 to 60 minutes in the absence of air [~~and during which the~~] aromatic oils, [~~nutrients~~] free fatty acids, and [~~molecules that impart pungent odors and unpleasant tastes (peroxides)~~], *and other water-soluble impurities* which were not present in the natural oils [~~before refining and bleaching, are removed and during which, from the temperature of 150°C (302°F), unsaturated fatty acids become mutagenic and from 160°C (320°F), trans-fatty acids are formed;~~] also called sparging – see definition on page 17 .

**"oil, deodorising of"** means the removal of aromatic oils, free fatty acids, peroxides and other water-soluble impurities which were not present in the natural oils. The process involves the oil being steam-distilled under pressure at a temperature between 240°C and 270°C for 30 to 60 minutes in the absence of air;

"mechanically pressed"~~[in terms of oil manufacturing]~~ means the oil that has been [~~obtained~~] by [~~applying~~] mechanical pressure in the absence of light and air [~~and has reached temperatures not exceeding 50°C (122°F)]~~ without applying any external heat [~~during the entire journey from seed to bottle to shelf and which has not been degummed, refined, bleached or deodorized~~];

"oil, mechanically pressed" means oil that has been extracted by mechanical pressure in the absence of light and air and without applying any external heat; the temperatures during the process shall not have not exceeded 50°C ;

"refining"~~in terms of oils~~ means oils that are mixed with a corrosive base such as sodium hydroxide (NaOH), (caustic soda) or with a mixture of NaOH and Sodium carbonate (Na<sub>2</sub>CO<sub>3</sub>) to remove any free fatty acids at a temperature of about 75° C (167°F) after the degumming process, resulting in the removal of more phospholipids, protein-like substances and minerals. The oil may still contain pigments, usually red or yellow at this stage;

**"oil, refining of"** means the removal of free fatty acids. Extracted oil is mixed with a corrosive base and the fatty acids are saponified. These are then removed by centrifuging at a temperature of about 75° C;

**"prepacked"**, in relation to a foodstuff means ~~[the packaging of]~~ that a foodstuff wrapped in packaging material and ready for sale ~~[to the consumer or to a catering establishment], [so that such foodstuff]~~ and cannot be altered without opening or changing the packaging but does not include individually wrapped one-bite sugar confectionery or chocolate confectionery which is ~~[not]~~ enclosed in ~~[any]~~ further packaging material and is not intended for sale as individual items, and the outer containers of bulk stock;

"pre-packed", in relation to a foodstuff means that a foodstuff is wrapped in packaging material and ready for sale, and cannot be altered without opening or changing the packaging, but does not include individually wrapped one-bite sugar and chocolate confectionery, which is enclosed in further packaging material and is not intended for sale as individual items, and the outer containers of bulk stock;

**"protein content"** in relation to a foodstuff means the ~~[protein content]~~ value calculated ~~[using the formula: protein = total Kjeldahl nitrogen ×]~~ by multiplying the nitrogen content of the foodstuff as determined by the AOAC International method of analysis by the appropriate AOAC International factor for that food ~~[as listed in the Guidelines];~~

"protein content" in relation to a foodstuff means the value calculated by multiplying the nitrogen content of the foodstuff as determined by the AOAC International method of analysis by the appropriate AOAC International factor for that food;

**"reputable laboratory"** means a laboratory which ~~[has the required accreditation for each method used for the purpose of nutritional and microbiological information on labels of foodstuffs or nutritional supplements by the South African National Accreditation Services (]~~ is accredited by SANAS or ~~[ILAC and part of the International Laboratory Accreditation]~~ is recognised via the "ILAC Arrangement and which uses chemical analytic methods as prescribed by AOAC International;

"reputable laboratory" means a laboratory which is accredited by SANAS or is recognised via the "ILAC Arrangement" and which uses chemical analytic methods as prescribed by AOAC International;

**"resistant starch [(RS)]"** means the fraction of *edible* starch that is not absorbed in the small intestine and consists of physically enclosed starch~~[(RS1)]~~, certain types of raw granules~~[(RS2)]~~ and retrograded amylose~~[(RS3)]~~. ~~[Modified starches used as food additives may also be partially resistant (RS4)]~~;

**"SANAS"** (South African National Accreditation Services) means [a] *the non-profit registered organisation that is recognised by the South African Government as the single National Accreditation Body that gives formal recognition that Laboratories, Certification Bodies, Inspection Bodies, Proficiency Testing Scheme Providers and Good Laboratory Practice test facilities are competent to carry out specific tasks*,<sup>14</sup>

**"sugar confectionery"** means any foodstuff which is ready for consumption without further preparation and of which a *sugar* ~~[carbohydrate sweetening matter]~~ is a characteristic ingredient, and includes sweetened liquorice, chewing gum and meringues, but does not include ~~[any chocolate or]~~ flour confectionery, edible ice, table jellies or sugar, and ~~[which]~~ may contain non-nutritive sweetening agents;

**"sugar(s)"** means any one, or any combination ~~[of the following sugars such as]~~, of xylose, mono and disaccharides ~~[such as corn syrup, deionised, de flavoured fruit concentrates and juices, dextrose, dextrose syrup, fructose, fructose syrup, glucose, glucose syrup, invert sugar, lactose, maltose, maltose syrup, sucrose, and sucrose syrup]~~ and *sugar alcohols* as listed in the regulations relating to sweeteners in foodstuffs;

**"sugar"** means any one, or any combination of xylose, mono and disaccharides and sugar alcohols as listed in the regulations under the Act<sup>15</sup> relating to sweeteners in foodstuffs;

**"typical values"** means the ~~[real, typical,]~~ representative nutritional ~~[or microbiological]~~ values of a foodstuff ~~which is~~ *when* sampled and analysed ~~[according to the relevant criteria stipulated in the Guideline and which are analysed in accordance with the methods described in these regulations and the Guidelines, and which has the required accreditation by the South African National Accreditation Services (SANAS) or other recognised international accreditation authority which are part of the ILAC arrangement]~~ in a reputable laboratory;

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<sup>14</sup> [www.sanas.co.za](http://www.sanas.co.za). SANAS is registered in terms of section 21 of the Companies Act, 1973 (Act 61 of 1963) [sic]

<sup>15</sup> Regulations Relating to the Use of Sweeteners in Foodstuffs; Government Notice No. R. 3128 of 20 December 1991, as amended in 1992, 1994, 1997, 2005

"typical values" means the representative nutritional values of a foodstuff obtained when sampled and analysed in a reputable laboratory;

"**vegetarian diet**" means a *diet*, the ingredients of which are of multi-cellular plant, fungal, algal and bacterial origin ~~[to the exclusion]~~ and excludes all animal flesh and animal products obtained from the slaughter of an animal, such as gelatine, animal fats, caviar and roe, ~~[and may include]~~ but unless otherwise qualified includes honey, dairy products produced without any slaughter by-products, and ~~[or]~~ unfertilised eggs obtained from live animals;

"**vegetarian diet, strict**" or "**vegan diet**" means a ~~[diet which includes ingredients of multi-cellular plant, fungal, algal and bacterial origin, but]~~ *vegetarian diet* which excludes all ingredients ~~[and additives]~~ derived from *animals* ~~[origin; and the expression "vegan diet" may be used instead of "strict vegetarian diet"]~~;

recommended additions:

'**advertisement**' in relation to any foodstuff means any written, pictorial, visual or other descriptive matter or verbal statement, communication, representation or reference appearing in a newspaper or other publication, distributed to members of the public or *via any media and* brought to the notice of members of the public in any manner, and which is intended to promote the sale or encourage the use of such foodstuff; and "advertise" has a corresponding meaning; <sup>6</sup>

"**AOAC International**" means Association of Official Analytical Chemists International, an internationally recognised organisation, which sets official standards for chemical analytic methods. <sup>16</sup>

"**bulking agents**" means any substance whether nutritive or non-nutritive that is specifically added to a foodstuff to increase its mass;

"**daily intake**" in relation to a foodstuff, means the mass, volume or number, as the case may be, and which is recommended by the manufacturer as the amount usually to be taken during one single day, and the said mass, volume or number shall be stated in terms of grams, millilitres, capsules, powders, portions, sachets or tablets, as the case may be; <sup>2</sup>

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<sup>16</sup> [www.aoac.org](http://www.aoac.org)

**“fatty acids”** means the molecules that bind with three glycerol molecules to form triglycerides which together with a little water constitutes a fat or oil; fatty acids also exist in the free state in plant and animal material;

**“fatty acids, hydrogenation of”** means the replacement of the double bonds between the carbon atoms in unsaturated fatty acids with hydrogen atoms. This is achieved by mixing hydrogen with fatty acids at high temperature and pressure in the presence of a catalyst, typically a powdered nickel compound. The process is called saturation. As the degree of hydrogenation increases, the oil becomes more resistant to rancidity, more viscous and has a higher melting point;

**“fatty acids, partially hydrogenated”** means fatty acids that have only been partially hydrogenated; this process results in the formation of trans fats;

**“HACCP system”** means the hazard analysis and critical control point system that identifies, evaluates and controls hazards which are significant for food safety;<sup>17</sup>

**“ILAC”** means the International Laboratory Accreditation Cooperation which is an international cooperation of laboratory and inspection accreditation bodies, promoting international confidence and acceptance of accredited laboratory data. Laboratories and inspection facilities receive global recognition via the “ILAC Arrangement”;<sup>18</sup>

**“IOOC”** means the International Olive Oil Council which is an intergovernmental organisation that promotes olive oil around the world by tracking production, defining quality standards, and monitoring authenticity;<sup>19</sup>

**“INS”** or International numbering system for Food Additives means the system prepared by the Codex Committee on Food Additives that provides an agreed international numerical system for identifying food additives in ingredient lists;<sup>20</sup>

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<sup>17</sup> Regulations Relating to the Application of the Hazard Analysis and Critical Control Point System under the Act (Government Notice No. R. 908 of 27 June 2003

<sup>18</sup> [www.ilac.org](http://www.ilac.org)

<sup>19</sup> [www.internationaloliveoil.org](http://www.internationaloliveoil.org)

<sup>20</sup> Class Names and the International Numbering System for Food Additives; Codex CAC/GL 36-1989

**“manufacture”** means any process by which the foodstuff becomes the product as described, including in the case of fresh fruit and vegetables washing, peeling and cutting and in the case of animal products the addition of marinades, sauces, or similar solutions;<sup>21</sup>

**“oil manufacturing”** means the process of extracting oil from plants by heating, by mechanical or chemical means and by the removal of extraneous material by filtering, degumming, refining, bleaching and deodorising; and does not include the manufacture of fat and fat products;

**“oil, olive, virgin”** in terms of olive oil manufacture means that the oil was produced by physical means including cold pressing, washing, centrifugation, filtration and decantation and excluding chemical treatment under conditions, including thermal, that do not lead to alterations in the physical and chemical nature of the oil;<sup>22</sup>

**“oil, olive, extra virgin”** in terms of olive oil marketing means virgin olive oil which has a free acidity, expressed as oleic acid, of not more than 0.8 grams per 100 grams, usually produced by the first cold pressing of green olives;

**“oil, olive, virgin”** in terms of olive oil marketing means virgin olive oil which has a free acidity, expressed as oleic acid, of not more than 2 grams per 100 grams, produced like extra virgin olive oil but from slightly riper olives;

**“oil, olive, ordinary virgin”** in terms of olive oil marketing means virgin olive oil which has a free acidity, expressed as oleic acid, of not more than 3.3 grams per 100 grams;

**“oil, olive, refined”** in terms of olive oil manufacture means olive oil which has been chemically treated to neutralise strong tastes and reduce the free acid content without changing its triglyceride structure;

**“oil, olive, pure”** in terms of olive oil marketing means a blend of refined olive oil with either virgin or extra virgin olive oil;

**“oil, olive”** in terms of olive oil marketing means a blend of refined olive oil and virgin olive oil, which has a free acidity, expressed as oleic acid, of not more than 1 gram per 100 grams;

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<sup>21</sup> From a regulation within the Act but cannot remember which

<sup>22</sup> IOOC is the source of the definitions on olive oil. They are included to promote control – see appendix B



“**oil, sparging of**” means a process of heating oil under vacuum to near the smoke point, and introduction of water at the bottom of the oil. The water is immediately converted to steam, which bubbles through the oil, carrying with it any chemicals which are water-soluble including impurities that impart unwanted flavours and odours;<sup>23</sup>

“**organic food**” means food certified as organic according to relevant regulations. For crops, it means they are not genetically modified and were grown without the use of artificial pesticides and fertilisers, human waste, or sewage sludge, and were processed without ionizing radiation or artificial food additives. For animals, it means that the animals roamed and grazed freely, were not reared in a feedlot or battery system, were not fed non-organic fodder or offal, antibiotics were not routinely used and growth hormone was not used at all;<sup>24</sup>

“**salt**” means a crystalline product consisting of *at least* 97% sodium chloride which is used as an ingredient or flavourant in or on foodstuff, and which may be obtained from the sea, underground rock salt deposits or natural brine provided that the salt has been iodated according to the regulations relating to salt under the Act;<sup>12</sup>

“**sugars, free**” also referred to as “**added sugars**” means all monosaccharides and disaccharides added to foods by the manufacturer, cook or consumer, plus sugars naturally present in honey, syrups and fruit juices;<sup>25</sup>

#### The strange case of nutritional supplements

According to the definition below from another regulation under the Act [the draft regulations does not have one] nutritional supplements are medicines and not food and do not therefore fall within the ambit of regulations on food. They are nevertheless mentioned in regulation 1 when defining claims and laboratories, in regulation 46 on allergens and in table 2 on reduction of disease risk claims. All mention of them should be removed.

"nutritional supplement" means products containing any natural<sup>26</sup> occurring molecules and molecules synthesized by chemical or biological means, or botanical extracts, derivatives,

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<sup>23</sup> Vegetable fats and oils. Wikipedia. Last modified 8 October 2007

<sup>24</sup> No reference to local or international legislation on organic food production found. It is not known whether farmed fish is considered as organically produced, so not included in the definition, but should be.

<sup>25</sup> WHO Technical Report Series 916: Diet, Nutrition and the Prevention of Chronic Diseases. 2003

<sup>26</sup> How can something that is synthesised be called natural?

concentrates, enzymes, coenzymes, co-factors, naturally occurring hormones and precursors, animal source substances or metabolites, and includes but is not limited to vitamins, minerals, co-factors, essential fatty acids, amino acids, enzymes, animal or botanical extracts and derivatives, probiotics, non-nutrient dietary phyto-protectants and similar items intended to be consumed in a dosage form, such as capsules, tablets, liquids or powders, for its nutritional value in the maintenance and improvement of human health;<sup>2</sup>

## 2 The guidelines<sup>27</sup>

The guidelines deal only with the following:

- a. analytic and laboratory methodology
- b. protocol for applications for approval of messages and claims
- c. lists of approved claims and names
- d. rationale for some definitions
- e. format and lay-out of information

- a. analytic and laboratory methodology

Methods for sampling, measuring and analysing food constituents should in all instances be regulated by references to reputable laboratories as defined and by international standards, and not be detailed in guidelines. There should also not be any exemptions from these standards as currently recommended in the guidelines.

- b. applications for approval

The protocol for “Preparing Dossiers to Substantiate Health Claims for Pre-Market Approval by the Department” should be in an annexure to the draft regulations.

- c. lists of approved claims and names

All approved claims not only function claims as in the guidelines should be listed in an annexure and updated by publication in the *Government Gazette* so that non-compliance

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<sup>27</sup> Guidelines relating to the Regulations Governing the Labelling and Advertising of Foodstuffs R642 of 20 July 2007

to facilitate monitoring by the relevant organs of the state, by organisations such as the Advertising Standards Authority<sup>28</sup> and by civil society.

Lists of “Category Names” under the Agricultural Products Standards Act and other relevant Acts do not have to be copied into a set of guidelines. Reference can/should be made to them and to international standard names and numbers in the draft regulations.<sup>29, 20</sup>

d. definitions

Three items of concern were noted on a cursory reading of the guidelines: a wrong definition of fibre as intrinsic plant cell wall polysaccharides with a lengthy rationale that is not supported by any evidence, and the method for measuring glycaemic index that is methodologically controversial, clinically meaningless, potentially dangerous for the public but very valuable for the food industry.<sup>30</sup> The definition of free sugar which appeared below a WHO/FAO table<sup>25</sup> was incompletely quoted to the possible advantage of the beverage and confectionery industry but with potentially serious negative implications for health.

In the rapidly expanding knowledge base on nutrition and disease and in the presence of intense public and market-related interest, terms should be determined, regularly reviewed and when/where necessary modified by a statutory, transparent and accountable body of experts [see - review and advisory body) with changes gazetted as amendments to the regulations.

e. format and lay-out

Guideline 11 includes only two examples of the recommended format of a report on “supplier product information” on trace amounts of an additive! This surely does not need to be in formal guidelines. Copies could be sent on request or other arrangements could be made.

Guideline 12 sets out “the Manner of Expression of Energy, Nutrient or other Substances” for a table on a label and tabulates the method of rounding off values.

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<sup>28</sup> The Advertising Standards Authority of South Africa (ASA) is an independent body set up and paid for by the marketing communications industry to regulate advertising in the public interest. [www.asasa.org.za](http://www.asasa.org.za)

<sup>29</sup> Codex CAC/GL 36-1989

<sup>30</sup> Details and references available on request

Because format and lay-out are critical to effective and intelligible labels and advertisements, legislative directives (not guidelines) and constraints should be unambiguously stipulated in the draft regulations. There is no need for its duplication in guidelines.

### 3. review and advisory body

The quotation below from the executive summary of a report <sup>31</sup> by the Joint Health Claims Initiative, a non-governmental organisation in the UK, is an example of what informs my thinking on a food labelling and advertisement review and advisory body.

“In recognition of the growing need to protect and promote public health, the European Commission has recently adopted a draft proposal for a regulation on nutrition and health claims, which will require that all health claims for food, be approved before they are released on the market. This includes the adoption of a list of health claims based on well-established science ....

The Commission welcomes contributions and suggestions from Member States, and as such, the Food Standards Agency commissioned the Joint Health Claims Initiative to develop a framework and produce an initial list of well-established health statements on which claims could be based.

In the absence of specific controls on health claims, the Food Standards Agency supports the work of the UK Joint Health Claims Initiative (JHCI), a democratic group that represents the concerned interests of the consumer movement, the food industry and food law enforcement officers. A Code of Practice for Health Claims for Food has been developed by JHCI and an Expert Committee of independent, respected scientists has been created to assess the scientific validity of claims.”

A permanent statutory commission with mandated public participation should be established within the Act to guide the Department of Health (DOH) in all regulating matters relating to food labelling and advertisement. Its brief should be wide and should include:

1. analytic and laboratory methodology
2. reference values and standards

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<sup>31</sup> Joint Health Claims Initiative Report to the Food Standards Agency: UK. JHCI/76/03. 2003

3. nutrition-related morbidity and mortality
4. dietary risk factors
5. food technology and plant and animal husbandry with special reference to health and ecological hazards
6. format and content of labels and advertisements
7. messages in labels and advertisements including claims and warnings
8. public education
9. monitoring and evaluation of the intervention package on public knowledge and behaviour.

It is unrealistic to assume that good intentions and good programmes will result in the desired outcomes. It was not so with the HIV/AIDS public education programmes in SA and interestingly also not so in the UK when TV programmes with food adverts were moved out of from children's peak watching times.<sup>1</sup>

It is a tall order and straddles many organs of government, scientific bodies, commercial, agricultural and industrial enterprises and civic groups. But if a safe and effective system is to be implemented, something along these lines will have to be established. We are facing a catastrophe worse than the AIDS epidemic; some argue that it is already here.

#### 4. enforcement mechanisms

There should be a dedicated section in the regulations that addresses issues related to inspection, enforcement, offences and penalties in an attempt to ensure compliance with, and reduce contraventions of the regulations. At present there are 7 references in the draft regulations to inspections and offences. They deal only with the production of documents. There are no references to enforcement or penalties.

#### 5. differences between labels and advertisements

The draft regulations do not always distinguish between labels and advertisements. There are, however, situations where this conflation is inappropriate. Separate regulations are needed where this applies. I will only comment on labels including displays in close proximity to bulk stock offered for sale in these situations.

## 6. appearance and format of displays

Formulating an effective written communication system is one of the responsibilities of the review and advisory body. Until such time as such a body is established and has reported on the appearance and format of displays the following should apply.

The language and images on food labels should be intelligible to all consumers and shoppers including those who are illiterate, nutritionally uninformed or ill-informed. Traffic light signage as advocated in the UK, Australia and elsewhere (but with a slightly different meaning), with amber indicating caution and red a warning, could facilitate intelligibility. The green symbol should not be used as it may detract from the fundamental and most important message that all food is basically healthy.

Food labels should be uncluttered and should therefore contain only information mandated in the regulations and nothing else – no bumph nor special pleading. Pictorial representations should not be misleading in any way.

Text, tables and logos, but excluding pictures, should be in a standard, regulated format and should be located on food labels in fixed, pre-determined positions.

Nutritional information should be tabulated in a standard format and should contain data on macro-nutrients only. There should be 4 columns only as in the example below (page 25). The values and volume/mass of a small serving to be defined in an annexure should be stated. The last column should be for cautions and warnings which should be in amber and red respectively. There should be no data on MDRs. They are not helpful.

## 7. language

The following language provisions are suggested. They differ from regulation 5(a)

- a. Information required to appear on a label of any pre-packed foodstuff excluding pre-packed fresh fruit and vegetables, pre-packed fresh, non-frozen raw meat and offal, marine and fresh water animal products, pre-packed flour confectionery, and pre-packed foodstuff sold on the premises of catering or other similar establishments shall be in English only;

- b. Information required to appear on a label of or in close proximity to pre-packed fresh fruit and vegetables, pre-packed fresh, not frozen raw meat and offal, marine and fresh water animal products, pre-packed flour confectionery, and pre-packed foodstuff sold on the premises of catering or other similar establishments shall be in at least one official language of the Republic of South Africa, provided that if this is not English, the information shall also be in English;
  - c. Information required to appear on advertisements shall be in at least one official language of the Republic of South Africa, provided that if this is not English, the information shall also be in English.
8. mandatory label display items

The applicable regulations should be located together and not scattered as at present in the draft regulations in 21 regulations and their sub-divisions (4, 8, 10, 12, 19, 23, 24, 25, 28, 29, 31, 33, 36, 41, 47, 48, 54, 56, 64, 69, and 72).

The following items should be displayed on labels (see appendix A for details):

- name of foodstuff
- volume/mass and solid mass or drained weight
- place of origin – with sufficient data to assess proximity of source of production and manufacture to point of sale
- contact details of producer, manufacturer and distributor, as applicable
- production process – including genetic modification of plants and the use of antibiotics and growth hormones in animal husbandry
- batch identification
- date markings – including date of manufacture but excluding durability date
- description and quantitative declaration (QUID) of ingredients

The actual names, not only the class names, and quantities of all the ingredients of all processed food should be displayed in alphabetical order. Insufficient information is provided when the ingredients of a processed food are listed in descending order of mass or volume. Consumers/shoppers need to be fully informed on the exact identity and the actual amount of every ingredient. The validity and reliability of quantitative data should be legislatively guaranteed by regulations on the scheduling and methods of measurements (as in the draft regulations) and sanctions for transgression (which should be included).

The addition of even small quantities of flavourants, colourants, preservatives, stabilisers and other substances to food is potentially dangerous for everybody and especially for individuals who may be selectively prone to adverse effects from some of them.

- nutritional information
- cautions and warnings

They could help people identify ingredients such as trans-fats, fructose and larger than recommended amounts of salt, sugar and fat. They are associated inter alia with an increased prevalence of non-communicable chronic diseases such as cancer and the rapidly expanding list of components of the metabolic syndrome . People need to be informed of the presence of substances which may cause allergic reactions, and of colourants and preservatives linked to ADHS. A case can also be made for putting a caution on products derived from animals fed antibiotics, growth hormones and similar substances and possibly also on genetically modified plant products.

## 9. claims

There should be a blanket ban on all claims and endorsements. Food is food and not medicine. The objectives of a total ban are to emphasise that all food, and not only food with a health or benefit claim, is intrinsically healthy, and to avert negative fall-out from unsubstantiated claims and spurious endorsements. There is no need for any special pleading on behalf of any ingredient or foodstuff except to create markets. A statement on functional foods is relevant and can justifiably apply to all food claims. It reads:

“There are two broad positions on functional foods. Proponents argue that they are a consumer friendly way to improve diets and fulfil the aim of nutrition as a source of preventing ill health. They see them in the forefront of “personalised medicine” and health through consumer choice. Sceptics argue that the market for functional foods is corporate and driven by the need to diversify and create niche sectors in saturated food markets. They also argue that functional foods are affordable and appealing only to the “worried well,” or worse, could be an extra burden on poor people’s finances.”<sup>32</sup>

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<sup>32</sup> Functional foods: their long-term impact and marketing need to be monitored. Editorial; Tim Lang, Professor of food policy. Centre for Food Policy, City University, London. BMJ 2007;334:1015-6



Food is essential for life. A varied diet, consumed in adequate but not excessive amounts, can provide sufficient and physiologically-balanced energy and nutrients to maintain weight and bodily functions, protect and promote health, prevent many diseases and facilitate cure, disease control and convalescence.

The addition to food of minerals, vitamins, anti-oxidants, protein, essential fatty acids, probiotics, and other so-called nutritional supplements is not supported per se. It has even been shown that several additives may not only be of no benefit to health but may actually increase disease risk. Claims based on the glycaemic index, even if it were possible to define and measure it to be meaningful in health and disease, should also not be allowed.

All messages on labels and advertisements claiming any health or other benefits, whether implied or explicit and irrespective of endorsements, should therefore be prohibited. Such a blanket ban will also ensure that new evidence, published with increasing regularity lately, on the detrimental effects on health of ingredients and foodstuffs, does not necessitate frequent amendments to the regulations. See appendix C for a re-formulation of the regulations.

#### 10. voluntary display items

Notwithstanding the above constraints, it should nevertheless be permissible to display messages on food labels that can promote healthy and eco-friendly eating habits such as locally sourced, fair trade, in season, organically produced, and no sugar/salt added, fat-free or low in fat. Messages that indicate suitability for social - not medical/disease/health - groups with culturally-defined dietary practices such as vegans and religious groups should also be permitted. In all instances the review and advisory body's recommendation on format and content should be followed and formal DOH approval obtained.

#### 11. exemptions

Regulation 72 in the draft regulations on exemptions should fall away and new regulations drafted to provide for truncated customised mandatory displays (rather than exemptions) for selected situations, such as bulk stock, very small packets, single ingredient agricultural commodities and fresh, unprocessed items that are not pre-packed.

Exemptions can create legal ambiguity and exploitable loopholes. In addition, when advances in knowledge necessitate changes in a list of exempted foodstuffs, the changes

could be cumbersome to administer, difficult to implement timeously, and often costly. And, what if the knowledge and consequent label changes are too late to pre-empt public harm and complicated non-selective recall procedures.

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## Appendix A

“A” and “X” are place-holders for the numbers that would be used in the regulations, Words not in italics are the words used in the draft regulations.

A Suggested re-wording of regulations dealing with mandatory display items:

*The following information shall be displayed on the labels of pre-packed foodstuffs, or on notices in close proximity to all non-packaged foodstuff including but not limited to bread and flour confectionaries, fresh fruit and vegetables, meat and fish -*

### A.1 *name of foodstuff*

the name of the foodstuff, provided that where the name is not a proper description of the foodstuff, the name shall be accompanied by an appropriate description;

### A. 2 *volume/mass and solid mass or drained weight*

The net contents *of the foodstuff and solid mass or drained weight where applicable;*

### A. 3 country of origin

Unless otherwise required by the provisions of the Agricultural Products Standards Act,<sup>33</sup> the country of origin of a foodstuff shall be declared as follows:

- a. “Product of (name of country)” if all the ingredients, excluding additives and microbiological cultures used in foodstuffs are from one specific country; *provided*

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<sup>33</sup> I was unable to find the Act on the internet

*that the country of origin of each additive and microbiological culture is shown if from another country;*

- b. *“Produced in (name of country)”, “Manufactured in (name of country)” or “Packed in (name of country)” where not all the ingredients in the final product are from the country manufacturing or packing the final product; provided that the country of origin of each ingredient is shown;*
- c. *“cultivated, farmed or reared in (name of farm or nearest town)” in the case of eggs, dairy, meat and offal, fish and marine products, and fruit and vegetables;*

#### A. 4 *contact details*

The names and addresses of the manufacturer, packer, distributor, and the person or organisation on whose behalf the foodstuff was manufactured and pre-packed as applicable, provided that in the case of imported foodstuffs, the name and address of the importer, shall also be displayed;

#### A. 5 *manufacturing process*

The name of the manufacturing process provided that where the name is not a proper description of the process, the name shall be accompanied by an appropriate description, and provided further that -

- a. *if heat has been used, the temperature range shall be stated;*
- b. *in the case of fresh produce sold as such this shall not apply;*

#### A. 6 *batch identification*

*The batch identification of the batch to which the foodstuff belongs;*

#### A. 7 *date markings*

- a. *the date of harvesting, slaughter and/or manufacture shall be preceded by the words, “date of harvesting, slaughter and/or manufacture”;*

- b. a “use by” date of foodstuffs listed in Annexure X shall be preceded by the words, “use by”;

A. 8 *name of ingredient - listed in alphabetic order, provided that -*

- a. The name shall be the name used when independently sold as a foodstuff and if not sold as a foodstuff as in the case of an additive, as indicated below;
- b. When a compound ingredient is used in the preparation of a foodstuff, the names of the ingredients of the compound ingredient shall be stated in parenthesis after the name of the compound ingredient, provided that;
- c. *When a fat or oil is used as an ingredient, the name/s of the fat or oil, shall be followed by the words “hydrogenated”, “partially hydrogenated” or “refined”, or another applicable descriptor, or a combination, as the case may be, in parenthesis;*
- d. When an ingredient with a gluten content of more than 20mg/kg of the final product is used, the name of the ingredient shall be followed by the words “contains gluten” in parenthesis;
- e. When any irradiated ingredient is used, the name of the ingredient shall be followed by the word "irradiated" in parenthesis;
- f. The name of a microbiological culture *shall be followed by words indicating its purpose for example* cheese culture, yoghurt culture, or whatever the case may be;
- g. *When fruit and vegetable extracts, vinegar and syrup are used as additives, the name shall be preceded by its respective descriptors: for example, tomato extract; malt vinegar, and glucose syrup and in the case of alcohol, the type of the alcohol;*
- h. Where an ingoing concentrated or dehydrated ingredient is reconstituted or partially reconstituted for use in the manufacturing of a foodstuff, the ingredient shall be followed by the appropriate descriptive words such as "reconstituted (name of ingredient) concentrate" or whatever is applicable;
- i. *When salt is used as an additive, the name on the label of the product shall be “salt”, and not “sodium chloride” or “brine”; provided that where salt is used as a*

*carrier for one or more additives or nutrients such as iodine or fluoride, the word salt shall be followed by the name of the carried additive in parenthesis;*<sup>12</sup>

- j. *Minerals shall be identified by their compound names, for example, zinc oxide;*
- k. Other additives shall be indicated in the list of ingredients by their common chemical name and followed in parenthesis by their *technological function/s and INS number. provided that –*
  - i. where a single food additive has more than one technological function every function shall be indicated;
  - ii. flavourants shall be followed by the word “natural” or “artificial”, as applicable;
- l. water shall be declared as an ingredient unless –
  - i. it is used in the manufacturing of the foodstuff solely for the purpose of wetting a dry additive or ingredient;
  - ii. it is part of brine or syrup and declared as such in the list of ingredients;
  - iii. the *added* water does not exceed 5% of the finished product;
  - iv. the *added* water is evaporated in the course of manufacture;

A. 9 quantitative ingredient declaration (QUID) provided that -

*The mass or volume per 100g of the foodstuff at the time of manufacture in parenthesis next to the name of each ingredient provided that -*

- a. the values are rounded off appropriately
- b. herbs and spices, but not other additives, if less than 2% by mass either singly or in combination, may be shown without an accompanying QUID;

A. 10 tabulated nutritional information according to the following:

- a. *The information should refer to the ready-to-eat product or the product as packed, whatever is appropriate, and a statement to that effect shall be placed directly beneath the table provided that –*
  - i. *in the case of dry ingredients, uncooked foodstuff, non-packaged foodstuff and bulk foodstuff, this proviso shall not apply;*

- ii. in the case of a foodstuff packed in a liquid medium the statement shall also indicate whether the nutritional information applies to the drained weight or to the net contents of the container;
- iii. the nutritional information shall not refer to any nutrient not in the ready-to-eat product or the product as packed;

b. the table (see example below) shall have only 4 columns in the following order:

*name of nutrient;*

*value per 100g for solid foodstuffs or 100ml for liquid foodstuffs;*

*value per stipulated mass or volume of a single small serving*

*warnings and cautions*

### NUTRITIONAL INFORMATION

nutrient	per 100g	per nnn g 1 serving	warning or caution
energy	nnn kj (nn cal)	nnn kj (nn cal)	HIGH IN ENERGY
protein	nn g	nn g	
total carbohydrate			
total sugars			
fructose			
total fat			
saturated fat			
total trans fats			
natural trans fat			
artificial trans fat			
sodium	nnn mg		

#### Information on the contents of the container of the ready-to-eat foodstuff

c. only the following nutrients shall be listed in the first column:

*energy, protein, total carbohydrate, total sugars, fructose, total fat, saturated fat, total trans fat, natural trans fat, artificial trans fat, sodium;*

d. the following shall apply to the entries in the second and third column –

- i. the energy value shall be calculated in a reputable laboratory from total carbohydrates, total fat and total protein;

- ii. *the mass or volume of a single small serving in the third column shall be as listed in Annexure X;*
  - iii. *the words “one serving” or “1 serving” shall be in the next row in the same column as, and directly under, the size of a single serving;*
  - iv. *the appropriate unit of measurement shall directly follow the value*
  - v. *the values shall be rounded off appropriately;*
  - vi. *if a nutrient is not present, a 0 shall be entered*
  - vii. *the exact or typical nutrient mass shall not be displayed in the case of any nutrient excluding sodium if the value per 100g of the nutrient is less than 10 mg, provided that the words “<10 mg” are displayed;*
- ;
- e. *the cautions and warnings in the fourth column shall be in accordance with regulations X and in their respective colours;*
- 

## Appendix B

Suggested wording of a regulation dealing with the labelling of edible oils where B is a place-holder for the number that could be used in the draft regulations.

B fats and oils sold as such

The same information as mandated in the draft regulation (appendix A) shall be displayed on the labels of pre-packed fats and oils sold as such provided that –

B1 name of fat or oil

the name of the plant or animal source of the fat or oil shall form part of the name of the fat or oil, provided that -

- a. in the case of olive oil, any describing words such as “virgin”, “extra virgin”, “pure”, and “refined” shall be as defined in the draft regulations (if amended as recommended);
- b. the word “blended” or “mixed” or a word with a similar meaning shall be used whenever there is more than one fat or oil source, including a source which contributes less than 2% of the final product;

B2 manufacturing process

- a. the description of the manufacturing process shall include all the processes involved using the names as defined in the draft regulations (if amended as recommended);
- b. the maximum temperature of the whole process shall be displayed;

B3 The following instructions shall/may be displayed on the label -

- In the case of all oils: "Do not re-use if colour is dark or after high heat;"
- In the case of olive oil: "Decant portions into a dark glass bottle, not a plastic bottle"  
"Store at cool room temp away from heat and light"  
"Do not chill".
- 

Appendix C

"C" and "X" are place-holders for the number that would be used in the regulations, Words not in italics are the words used in the draft regulations.

C. prohibited statements, declarations and claims

C.1 A label of a foodstuff shall not refer to the Act, the Department of Health *or any other government department in any level of government* or any official of the said *department*;

C.2 The following information or declarations shall not be displayed on any label, notice or advertisement of a foodstuff:

- a. words, pictorial representations, emblems, logos, marks or descriptions which create an impression that such a foodstuff is supported by or endorsed by:



- i. *health practitioners*, individually or through any professional or consumer advisory organisation consisting of one or more health practitioners;
  - ii. organisations, associations, foundations and other entities, notwithstanding proof that they are involved in generic health promotion which will improve the nutritional status of people, even if the directions of the organisation, association or foundation do not contradict the requirements of these regulations;
- b. words, pictorial representations, marks or descriptions which indicate that such a foodstuff has been slaughtered, manufactured, milled and/or packaged, as the case may be, in accordance with the criteria of the organisations, associations, foundations and other entities, unless *in compliance with regulation X* (voluntary display items, item 10 above) *and certified as such*;
- c. an individual's endorsement or testimonial in the form of a picture, written or verbal statement or in any other form;
  - d. an endorsement from a manufacturer, seller or any other person, organisation, association, foundation or other entity whatsoever in the form of a logo, emblem, mark, symbol, cartoon-type character or puppet, computer animation or similar strategy or token or gift, written or verbal statement or any other manner of communication with regard the properties of the foodstuff in order to bring the foodstuff to the attention of the public or to encourage its use, *unless in compliance with regulations X* (voluntary display items, item 10 above) *and certified as such*;

C.3 The following words and phrases shall not be displayed on any label, notice or advertisement of a foodstuff, including the name or trade name -

- a. the words "health" or "healthy" or other words or symbols implying that the foodstuff in and of itself has health-giving properties;
- b. words or symbols implying that the foodstuff protects and promotes health, or reduces disease and the risks of disease;
- c. the words "wholesome" or "nutritious" or "pure" or "natural" or "nature's" or any other words with similar meanings;
- d. the words "glycaemic index" or any other words with similar meanings;

- e. the words “hypo-allergenic” or “inherently allergen-free” or “non-allergenic” or any other words with similar meanings;
- f. *MDR (minimum daily requirement), or RDA (required daily allowance), or any other words with similar meanings.*

C.4 The following claims shall not be displayed on any label, notice or advertisement of a foodstuff, including the name and trade name:

- a. a claim that a foodstuff provides complete or balanced nutrition;
- b. a claim that the foodstuff is suitable for diabetics *or any other medical condition whatsoever*;
- c. a claim that a foodstuff contains or was manufactured with a probiotic, prebiotic, synbiotic or similar substance;
- d. a claim that a foodstuff provides "sustained energy" or similar effects;
- e. *a claim implying an effect on any person and in any situation from the glycaemic index of any foodstuff*;
- f. a claim that implies that a foodstuff may have *medicinal, curative, disease-preventive or health protective and promotive effects*;
- g. a claim that implies that a foodstuff may have slimming benefits can help to control or reduce mass or weight or has similar benefits;
- h. a claim that implies that a foodstuff may reduce the risk of any disease;
- i. a claim that implies that a foodstuff may have any detoxification, functional, *enhanced functional* or similar benefits;
- j. a claim, declaration or implication that a foodstuff does not possess a particular characteristic, property, substance, or nutrient unless *in compliance with regulation X (voluntary display items, item 10 above) and certified as such*;

- k. a claim, declaration or implication that a foodstuff is free from a particular permitted characteristic, property, substance, or *nutrient* unless –
  - i. *in the case of a naturally gluten-free cereal sold as a single ingredient foodstuff, it can be shown that such cereal is not contaminated with any cereal that contains gluten:*
  - ii. *in the case of any other foodstuff which may contain gluten, the gluten level does not exceed 20 mg per kilogram of the foodstuff;*
  - iii. *the foodstuff does not contain any ingredient that carries a mandatory caution or warning;*
- l. a claim, declaration or implication that a foodstuff has not been made from concentrate" in the case of a fruit or vegetable juice or blend thereof unless the juice is freshly squeezed from the fresh fruit or vegetable and sold within 24 hours;
- m. *a claim, declaration or implication that a foodstuff is fresh in respect of frozen foodstuffs that are thawed for subsequent sale;*