



**THE VOICE OF FOOD RETAIL**

Feeding Families  Enriching Lives

April 26, 2017

Division of Dockets Management (HFA-305)  
Food and Drug Administration  
5630 Fishers Lane, rm. 1061  
Rockville, MD 20852.

Re: Use of the Term “Healthy” in the Labeling of Human Food Products; Request for Information and Comments; Docket number FDA-2016-D-2335.

Dear Sir or Madam,

On September 28, 2016, the Food and Drug Administration (FDA or the Agency) published in the *Federal Register* a notice announcing the establishment of a docket to receive information and comments on the use of the term “healthy” in the labeling of human food products.<sup>1</sup> The notice discussed FDA’s position regarding the use of the term “healthy” and requested information and comments on this issue. In a later *Federal Register* notice, the Agency extended the comment period until April 26, 2017.<sup>2</sup>

The Food Marketing Institute (FMI) proudly advocates on behalf of the food retail industry. FMI’s U.S. members operate nearly 40,000 retail food stores and 25,000 pharmacies, representing a combined annual sales volume of almost \$770 billion. Through programs in public affairs, food safety, research, education and industry relations, FMI offers resources and provides valuable benefits to more than 1,225 food retail and wholesale member companies in the United States and around the world. FMI membership covers the spectrum of diverse venues where food is sold, including single owner grocery stores, large multi-store supermarket chains and mixed retail stores. For more information, visit [www.fmi.org](http://www.fmi.org) and for information regarding the FMI foundation, visit [www.fmifoundation.org](http://www.fmifoundation.org).

FMI appreciates the opportunity to submit comments to FDA regarding the use of the term “healthy” in the labeling of human food products.

## **Introduction**

Health and nutrition is of the utmost importance to food retailers and for years, FMI and its members have recognized the need to help consumers navigate the abundance of health related claims made on products sold within today’s supermarket. The

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<sup>1</sup> 81 Fed. Reg. 66562 (Sept. 28, 2016).

<sup>2</sup> 81 Fed. Reg. 96404 (Dec. 30, 2016).

supermarket industry is committed to transparency for its consumers and has been held up as a model for other segments of the food industry to follow. Retailers continuously strive to provide consumers with innovative ways to improve and maintain their health by making it easier for them to identify nutritious foods and by providing wellness-focused programs that help customers improve their diets and overall well-being. These programs range from carrying more health and wellness specific products to educational programs, dietitian tips and cooking classes. It is important to note that 2/3 of shoppers agree that their food choices are an important factor affecting their health.<sup>3</sup> FMI believes that, when properly defined, the use of the term “healthy” can help meet the goal of providing consumers with accurate information that will help them make informed and beneficial purchasing decisions.

### **Defining “Healthy” Will Benefit Consumers**

Clearly redefining the term “healthy” for use in labeling of human food will benefit consumers in a number of ways. First, as noted above, health and nutrition is important to both retailers and consumers. A clear definition of the term “healthy” will help support this common goal by helping consumers identify products that contribute to a healthy lifestyle and by increasing knowledge about food choices.

Second, having a clear definition of “healthy” will help ensure that consumers, industry, and manufacturers all use consistent terminology to describe healthy foods. By defining “healthy” via regulation, FDA and industry can direct consumers to a formal definition that will help them understand what is meant by the term “healthy” in food labeling. A complete understanding of the term will help consumers determine how individual foods might impact their overall diet.

Third, updating the definition of “healthy” in a way that is consistent with the *2015-2020 Dietary Guidelines for Americans (2015-2020 Dietary Guidelines)* is important to ensure that consumers are provided with accurate information based on current science. FMI and its member companies value scientific data and information, and recognize that nutrition science continues to advance over time. FMI shares FDA's goal of providing and supporting accurate and useful information to consumers so they can choose healthier diets, and agree that this means information should reflect modern science findings.

### **Timing for Compliance Period**

We ask that FDA take into account a number of factors when establishing a reasonable compliance period to revise labels consistent with any changes to the definition of “healthy.” FMI’s retail membership is composed of large multi-store chains, regional firms, and independent supermarkets. FMI’s associate members include the supplier partners of its retail and wholesale members, including private label manufacturers. Many retailers operate private label brands that are positioned as lower cost alternatives to regional, national or international brands. Private brands accounted for 22.9% of

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<sup>3</sup> FMI Report, Shopping for Health (2016).

2015 unit market share in U.S. supermarkets, while the dollar share was measured at 19.2%.<sup>4</sup>

Changing a large quantity of food labels requires time, careful planning, significant resources, new designs, new printing plates, and queuing up in line with the printing company. This is particularly true for the private brand products discussed above, as printing plates and designs are utilized for periods far outlasting those of national brand products. Further, the process requires coordination between software vendors, suppliers, graphic designers, printing companies, and others and can easily add costs with the potential to trickle back down to consumers.

FMI appreciates the opportunity to provide comments to FDA regarding the use of the term “healthy” in the labeling of human food products. We applaud FDA for seeking industry input and agree that redefining “healthy” in a manner consistent with current science will benefit consumers. We ask that FDA consider all factors that make label changes difficult and costly when determining the timing for compliance with the revised definition.

If you have questions about these comments or would like additional information, please feel free to contact Dana Mullen at [dmullen@fmi.org](mailto:dmullen@fmi.org) or 202-220-0637.

Sincerely,

A handwritten signature in cursive script that reads "Dana Mullen".

Dana Mullen  
Regulatory Counsel

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<sup>4</sup> PLMA's 2016 Private Label Yearbook: A Statistical Guide to Today's Store Brands (2016).