



*Via regulations.gov*

Dockets Management Staff (HFA-305)  
Food and Drug Administration (FDA)  
5630 Fishers Lane, Rm. 1061  
Rockville, MD 20852

July 6, 2021

**Re: Agency Information Collection Activities; Proposed Collection; Comment Request; Quantitative Research on a Voluntary Symbol Depicting the Nutrient Content Claim “Healthy” on Packaged Foods; Docket No. FDA-2021-N-0336**

To whom it may concern,

Thank you for the opportunity to comment on the Food and Drug Administration’s (FDA’s) planned consumer research to test a voluntary symbol depicting the nutrient content claim “healthy” on packaged foods. As the food industry association, FMI works with and on behalf of the entire industry to advance a safer, healthier and more efficient consumer food supply chain. FMI brings together a wide range of members across the value chain — from retailers that sell to consumers, to producers that supply food and other products, as well as the wide variety of companies providing critical services — to amplify the collective work of the industry. More information about our organization is available [www.FMI.org](http://www.FMI.org).

**FMI supports the development of a healthy symbol, particularly one that could be used on a voluntary basis, to indicate that a product qualifies for FDA’s to-be-updated “healthy” criteria. FMI agrees that the use of a voluntary graphic icon to help consumers identify items that meet FDA’s definition of “healthy” could help better guide consumers to choose nutrient-rich foods and beverages to build healthy eating patterns. We strongly support FDA conducting consumer research to evaluate potential symbols to depict the “healthy” nutrient content claim, as we believe this type of research is critical to understanding whether the proposed symbols are effective in communicating their intended meaning. However, FMI believes such research is premature until FDA issues its updated definition for “healthy.”**

- 1. FDA should first update the regulatory definition for “healthy” before conducting research on a voluntary “healthy” icon.**

FMI would consider it more appropriate to develop draft symbols, and conduct consumer testing on such symbols, after the regulatory definition has been updated and FDA has had sufficient time to receive and assess stakeholder feedback and comments. This would allow FDA to better assess



whether the consumer perception of the symbol aligns with the updated definition. The definition of “healthy” may influence both the design and consumer understanding of the symbol and will be important to resolving current confusion amongst stakeholders. It also would allow FDA to test an explanation of the “healthy” symbol (e.g., one provided through a URL or otherwise) that is in line with the new definition, and to test mockup labels for products that qualify for the new definition.

We also would encourage FDA to provide a more holistic picture of the agency’s plans related to “healthy” claims and symbols for public comment. In particular, we believe interested stakeholders would have a more meaningful opportunity for comment with additional information on the agency’s overall strategy related to the term “healthy” and front-of-pack labeling, including how the agency derived the draft “healthy” symbols, how it will decide which symbols to test with consumers, and the methodology to be used for the consumer research. To this end, once FDA finalizes the updated “healthy” claim criteria, we encourage FDA to issue a separate notice, such as an Advanced Notice of Proposed Rulemaking, or a Request for Information, to solicit comments on the healthy symbol in light of the updated definition and other work that the agency has conducted on the “Use of Symbols to Communicate Nutrition Information.”

With respect to the planned consumer testing specifically, we have the following comments:

**2. FDA should test a nutrient-based front-of-pack labeling scheme in combination with the “healthy” symbol.**

We strongly encourage FDA to test options that provide, in addition to the “healthy” symbol, information on specific nutrients that are relevant to a product’s status as healthy. We understand FDA intends to select a “healthy” symbol that is a “simple label (such as the ones using a summary system).” We also understand that as part of the planned consumer research, FDA intends to assess a “no explanation condition” and a “URL condition” that would provide an explanation of what is meant by the term “healthy.” We recommend that FDA also test a healthy symbol in combination with a nutrient-based front-of-pack labeling scheme that provides an explanation for why a product is healthy.

We believe such a system could accomplish FDA’s objectives because the “healthy” symbol would provide a summary, but it would also provide a helpful complement to the symbol that explains *why* a product is healthy without the need to visit a URL or read a detailed explanation. It also would be specific to the individual food product, which could be more helpful than trying to explain in general terms what a “healthy” product is. Further, it could help avoid a potential unintended consequence of oversimplifying the meaning of the term “healthy” or suggesting that individual foods are either good or bad. The existing voluntary Facts Up Front program is a good example of a nutrient-based front-of-pack labeling scheme that could be tested in combination with a potential healthy symbol. A fact-based front-of-pack label approach, like Facts Up Front, could be implemented and compliment a “healthy” icon, particularly if both work within FDA’s existing nutrition labeling and claims framework. A fact-based approach also supports the Nutrition Facts panel as the main source of nutrition information and could be a useful tool to help consumers understand and use the Nutrition Facts panel more effectively.

### **3. FDA should test symbol options without the term “FDA.”**

All of the draft “healthy” symbols that FDA has published for potential consumer testing include the term “FDA.” We understand this is based on FDA’s literature review on front-of-pack labeling, which suggested that “Institutional endorsement of logos may be related to greater confidence in the label.” It is unclear, however, whether this principle holds true for government (rather than other institutional) endorsements, and whether it holds true for FDA particularly because FDA’s view over the years has generally been that the agency does not “approve” or “endorse” food products.

FMI believes it is important to specifically evaluate via consumer research whether including the term “FDA” as part of the logo will result in greater confidence in the label. This principle can only be tested if FDA also includes in its research symbols that do not include the term “FDA.” We also note that it is largely unprecedented in the area of food labeling for FDA to allow its name to be used in a way that could suggest the agency endorses the product, so we encourage FDA to carefully consider this approach, including assessing whether the use of “FDA” as part of the symbol conveys any implied messages.

### **4. FDA should test QR codes as a possible way to provide additional information about a “healthy” product.**

As discussed above, we understand FDA intends to assess a “no explanation” condition and a “URL condition” that would provide an explanation of what is meant by the term “healthy.” As FDA may be aware, quick response (QR) codes and other digital and electronic means of disclosure are becoming increasingly popular and widely used, among both food companies and consumers. Testing a URL condition strikes us as somewhat out-of-date considering that many product labels already (or will soon) include a digital or electronic link that can be used to provide additional information on-package. While we would not consider it appropriate for FDA to *mandate* use of a digital link as part of using the healthy symbol, we would encourage the agency to test such a link as one option for providing additional information. The digital or electronic link typically appears on the information panel, rather than on the front panel, but FDA could consider testing a condition where the healthy symbol is accompanied by a direction for the consumer to “Scan code on side panel” (or similar language that reflects the specific technology and the placement of the link) to learn more about the meaning of the term “healthy.”

### **5. FDA should test the extent to which consumers notice the draft “healthy” symbols, using mockup labels that accurately reflect the typical amount of other label “claims and symbols.”**

FMI recommends that as part of the planned consumer research, the agency assess the extent to which consumers see or notice the “healthy” symbol. To evaluate this, it would be important to use mocked up labels that reflect a representative amount of other label “claims or symbols.” FMI considers it important to assess the extent to which consumers see the healthy symbol, as it more

likely to serve as an incentive for companies to formulate products to meet the “healthy” definition if consumers are likely to notice the symbol.

**6. The consumer research should start by asking open-ended questions, and then move toward more targeted questions.**

Starting with open-ended questions, such as “What do you think when you see this symbol?”, and then using more specific or closed-ended questions, will avoid introducing bias into the responses. This will better enable FDA to evaluate all aspects of how consumers perceive the symbol. We recommend that the questions posed be aimed at assessing:

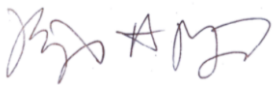
- Whether consumers gravitate toward the symbol (including whether they see it, and whether it affects purchase intent),
- What consumers understand the symbol to mean, both generally and about the specific product (which will enable FDA to assess whether this understanding is consistent with what the “healthy” symbol is intended to mean, based on the updated regulatory criteria), and
- Whether the symbol conveys other potential implied messages (e.g., that the product is organic, bioengineered, natural, non-GMO, etc.).
- Whether a lack of symbol might be perceived as unhealthy even on foods that would meet the definition (the obvious example here being bulk produce such as fruits and vegetables that would not be individually labeled).

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FMI thanks FDA for the opportunity to submit comments. Our members are committed to playing an appropriate role in communicating with consumers about, and ensuring the availability of healthful foods, and we thank the agency for considering our input. We look forward to future dialogue on the meaning of healthy and how to depict this important claim via a symbol.

Please do not hesitate to contact FMI with any questions.

Sincerely,



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Director, Health & Well-being



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