**Docket No. FDA-2016-D-2335**

**Use of the Term “Healthy” in the Labeling of Human Food Products:**

**Request for Information and Comments**

**Comments of the**

**AMERICAN CHEESE SOCIETY**

The American Cheese Society (ACS) welcomes this opportunity to comment about the meaning and use of the Term “Healthy” in the Labeling of Human Food Products. “Healthy” is a word or claim that is of interest to U.S. consumers, along with natural, local and other non-defined claims. “Healthy” is one of the most complex terms and possibly one that can be most misunderstood by consumers.

The American Cheese Society is a not-for-profit trade association, headquartered in Englewood, CO, that represents the interests of its 2,300 members throughout the United States and abroad. ACS is the leading organization supporting the understanding, appreciation, preservation and promotion of artisan, farmstead and specialty cheeses produced in the U.S. It provides the cheese community with educational resources and networking opportunities, while encouraging the highest standards of cheesemaking focused on safety and sustainability. Most ACS members are small (less than 500 employees) or very small businesses (less than $1 million in revenue) that support local communities and the rural farm economy.

Whereas ACS’s main focus is on cheesemakers, members also include retailers, cheesemongers, distributors, importers and others who make up the specialty cheese business. Cheese is the second largest category in specialty foods, accounting for $5.4 billion in sales in 2021, according to the 2022 State of the Specialty Food Industry published by the Specialty Food Association. Sales of specialty cheese increased by 26.9% between 2019 and 2021.

Specialty cheese is a thriving industry vital to the economy and U.S. consumers.

**Summary of Position** FDA’s proposed regulation would update the definition for the implied nutrient content claim “healthy,” which specifies the requirements for when the claim can be used on human food products. The claim “healthy,” when used in the nutritional context in food labeling, is an implied claim that the levels of the nutrients in the food are such that the food may help consumers maintain healthy dietary practices. Under the existing regulation, there are specific criteria for individual nutrients that must be met in the food for it to bear the claim, including limits on total fat, saturated fat, cholesterol, and sodium, and minimum amounts of nutrients whose consumption is encouraged, such as vitamin A, vitamin C, calcium, iron, protein, and dietary fiber.

ACS commends FDA for its dedication to promote a “healthy” diet. Obesity, diabetes, heart disease and other conditions can be partially controlled through diet. This is important to the health of U.S. consumers and will have the added benefit of mitigating health care costs.

However, ACS questions that this can be achieved through “healthy” labeling. A comprehensive public education program promoting the USDA’s MyPlate program would be more effective. The MyPlate program includes “Dairy” as one of the essential food groups. USDA states that “about 90% of Americans do not get enough dairy.”

U.S. consumer consumption of Dairy could be compromised by the “healthy” label. Whereas some low-fat dairy products and cheeses might qualify under the proposed definition, most dairy and cheese products would not. Confusion could develop as consumers would consider all dairy products without a “healthy” label as being “unhealthy.” This could limit their intake of dairy, protein and other important nutrients, working against the MyPlate program.

Current nutrition science and Federal dietary guidance specifically emphasize the importance of following a healthy dietary pattern across each person’s lifespan. The Dietary Guidelines, 2020-2025 notes that foods and beverages are not consumed in isolation, but rather in various combinations over time—a “dietary pattern.” Components of a dietary pattern may have interactive, synergistic, and potentially cumulative relationships, such that the dietary pattern may be more predictive of overall health status and disease risk than individual foods or nutrients The principal message of the Dietary Guidelines, 2020-2025 is to follow a healthy dietary pattern that focuses on meeting food group needs with nutrient-dense foods and beverages and stays within calorie limits.

In other words, “Healthy” should be used in a complete diet or lifestyle context rather than in a nutrient or single food-focused context. What we eat, how and when we eat, even with whom we eat, and our lifestyle influences what is healthy for a group or an individual. “Healthy” is a lifestyle that includes exercise, mental well-being and other aspects beyond food.

**The Healthy Components of Cheese**

Some reports suggest that full-fat dairy may lower risk of CVD and [type 2 diabetes](https://www.hsph.harvard.edu/nutritionsource/disease-prevention/diabetes-prevention/). It is suggested in these studies that perhaps specific nutrients in cheese may be protective for the heart, like calcium and conjugated linoleic acid, and that the types of saturated fatty acids in cheese have a different effect on the heart than other types such as that in red meat, reports Harvard University’s T.H. Chan School of Public Health. During the processing of some cheeses, bacteria are added during the fermentation stage, which may alter its effects on blood cholesterol.

Cheese might also have some benefit with strokes and weight changes, specifically when replacing red meat in the diet. Although cheese is high in saturated fat and sodium, it is also rich in calcium and protein, and some fermented types contain probiotics. One can enjoy a modest amount of cheese as part of a healthful diet.

ACS is concerned that “Healthy” labeling from manufacturers will discourage consumers from eating cheese.

ACS is even more concerned about a symbol that would connote “healthy.” FDA has begun to conduct research on a symbol that industry can voluntarily use to label food products that meet the proposed “healthy” definition. FDA has issued two procedural notices on the preliminary quantitative consumer research it plans to conduct on voluntary symbols that could be used in the future to convey the nutrient content claim “healthy.”

A symbol communicating “healthy” can lead to consumers assuming that all products without this symbol are “unhealthy.” This is similar to the Traffic Light System that contains red, green or yellow marks to indicate whether a food has high, low or moderate levels of ingredients to encourage or avoid consumption. These symbols are used in the United Kingdom and other countries.

ACS does not believe that such a simple system adequately informs consumers about the nutritional benefits of foods.

**Protecting Small and Very Small Businesses** ACS members are primarily small and very small businesses. These companies operate on razor-thin margins and have limited funds to invest in marketing.

As with many regulations, the “healthy” label will benefit larger Consumer Packaged Goods companies that have the financial means to invest in relabeling products, which can cost millions of dollars. It will put small and very small businesses at a competitive disadvantage even if their products meet the new definition of “healthy.”

FDA and the U.S. Congress are committed to helping small and very small businesses. This new labeling regulation and especially the “healthy symbol” will work against this commitment.

**Conclusion** “Healthy” on a food label should acknowledge the complex nature of foods and their relationship to good eating patterns and lifestyles. A single component does not make a food “healthy.”

The usage of a “healthy” symbol will further deteriorate from the efforts to encourage a healthful diet as consumers will interprete that foods without that symbol are not “healthy.” In addition, the creation of a “healthy” symbol will benefit large CPG companies to the detriment of small and very small food businesses that create the majority of food products in the U.S.

Thank you for this opportunity to comment. ACS will be available to respond to questions and to provide additional information.

Sincerely,

Michael Koch Tara Holmes

President Executive Director

American Cheese Society American Cheese Society