



Engineered Labelling

Hard work and patience pays off

After four years, eleven formal meetings, three draft standards, heavy lobbying and a lot of hard work, the multi-stakeholder group working under the auspices of the Canadian General Standards Board has come to a consensus on proposed voluntary standards for labelling and advertising of foods obtained, or not obtained, through genetic engineering. The draft standard is expected to be adopted as a National Standard of Canada within a few weeks. What is the standard and what are the implications for consumers and the food industry?

The standard is quite complex but remarkably understandable. After providing a useful introduction and several definitions, the standard has only four substantial sections:

Section 4 sets out general requirements for claims. The key provisions require all claims to be understandable, informative, not false, not misleading and subject to verification.

Section 5 sets out detailed rules about making claims that foods are products of genetic engineering, setting out different rules for single-ingredient foods and multi-ingredient foods but in both cases using the standard of 95%. The standard uses the expression genetic engineering (GE) rather than genetic modification or “genetically modified organisms” because, very few products could claim not to have been genetically modified over the centuries and the term organism would usually be just as misleading because most foods do not contain organisms. So, for example, “These chips are made with oil from canola that is the product of genetic engineering” or “canola oil from canola genetically engineered to increase crop yield” or “our potatoes are genetically engineered to reduce our use of pesticide” would all be acceptable statements.

Section 6 sets out the standard for products that are not products of genetic engineering. Again, different rules are provided for single-ingredient and multi-ingredient foods but in both cases the threshold of 5% is the standard. The standard goes to some length to explain that the level of 5% had been a source of much committee discussion but that committee members had concluded that “an amount substantially lower than five percent would not currently be practical or achievable in Canada across a range of commodity groups” and pointed out that even in the case of certified seeds, that purity of the seed is only guaranteed at 98-99 percent. Furthermore this level was consistent with international practice as this was the level set by Japan.

“Corn (not a product of genetic engineering)” or “non-genetically engineered potatoes” or “These corn chips are made with non-genetically engineered corn” are all examples of acceptable claims.

Food and food ingredients obtained from GE sources whether or not they contain modified protein or DNA (such as highly purified oils and sugars) are still considered by the standard to be GE and cannot claim to be non-GE on any label.

Section 7 sets out detailed requirements for verification and testing of claims because no claim is permitted if it cannot be verified. The requirements of this section are a real advance and will significantly enhance practical enforcement and compliance.

While the standard is an important achievement obtained in a uniquely Canadian way, its immediate impact is not likely to be very dramatic. Canada has not seen any significant proliferation of GE labeling in the last four years because Canadian retailers across the country agreed to discourage their use until a consistent national standard was achieved. So now we will likely see a modest increase in non-GE claims on our store shelves and consumers will have greater choice if they are willing to pay the premium such products are likely to command.

The impact on industry will be modest unless, against all indications, the market really begins to demand non-GE products. In that case, large manufacturers who source globally will simply re-formulate; they have been ready for this contingency for three years. For smaller Canadian manufacturers, the situation may be more problematic.

The Canadian Council of Grocery Distributors, committee chair Doryne Peace and all the members deserve congratulations for taking on this tough issue and sticking with the process. Consensus decision making is never easy or glamorous. They didn't get unanimity and the standard won't end the tiresome demand to make it mandatory. But good old hard work and patience paid off and Canada finally has a workable standard for GE labelling. It's well worth the wait.

Ronald L. Doering, B.A., LL.B., M.A., LL.D., was the president of the Canadian Food Inspection Agency and now practices food law in the Ottawa offices of Gowling Lafleur Henderson LLP. He can be reached at: ronald.doering@gowlings.com