

FDA Commissioner Gottlieb Launches FDA's New Nutrition Strategy

March 30, 2018

Food, Beverage, and Dietary Supplements

Yesterday (March 29), FDA Commissioner Scott Gottlieb kicked off the agency's [Nutrition Innovation Strategy](#) in his keynote address, "[Reducing the Burden of Chronic Disease](#)," delivered at the National Food Policy forum. The Strategy is intended to promote public health through improved nutrition, encourage industry innovation to create more healthful products, and help consumers identify such products.

Commissioner Gottlieb characterized the Strategy as a critical investment in public health, stating "[t]he public health gains of [improved nutrition and diet] would almost certainly dwarf any single medical innovation or intervention we could discover." FDA's Strategy is intended "to assist the American public with creating healthier diets for themselves and their families."

In his address, Commissioner Gottlieb highlighted the modern consumer's demand for more healthful options and transparency in the food s/he consumes. He commended industry for "innovating to give people more of what they want"--foods with fiber and potassium and less sodium and sugar.

FDA's [Nutrition Innovation Strategy](#) focuses on five key areas: (1) reducing sodium, (2) modernizing claims, (3) modernizing ingredient labels, (4) modernizing standards of identity, and (5) implementing the nutrition facts label and menu labeling. Throughout the speech, Gottlieb promised to ensure that all stakeholders would have ample opportunities to provide input and feedback as the agency rolls out its plan.

Reducing sodium

According to Gottlieb, reducing sodium in foods is pivotal to a meaningful nutrition initiative, as "[t]here remains no single more effective public health action related to nutrition than the reduction of sodium in the diet." Gottlieb notes the agency's [short-term, voluntary draft targets for sodium reduction](#), which support reducing sodium intake to 3,000 mg per day from the current average of over 3,400 mg per day. Going forward, FDA intends to align its approach with the [Dietary Reference Intake being conducted by the National Academies](#) and plans to release updated short-term targets in 2019.

Modernizing claims, including "healthy" and "natural"

Gottlieb highlighted the importance of science-based food claims and consumers' interests in finding easier ways to identify healthful foods by looking at labels. Because label claims act as "quick signals on food packages . . . about what benefits a food or beverage they choose might

have,” the Strategy will look for ways to “encourage the food industry to introduce new products or reformulate existing products to improve their healthy qualities.” In turn, FDA intends to streamline its process for reviewing qualified health claims and will consider how to enhance the efficiency of this review process.

Gottlieb specifically addressed the agency’s activities to redefine the regulatory definition of a “healthy” food, indicating the possibility of a definition that moves away from the nutrient focus to a definition that better reflects dietary patterns and food groups, like whole grains, low fat dairy, fruits and vegetables and healthy oils.

Gottlieb also specifically addressed the agency’s activities to define “natural,” recognizing that “consumers increasingly want to know what is in the food they eat and whether it is ‘natural.’” While Gottlieb acknowledged the wide differences that exist regarding “natural” foods, he promised that the agency will have “more to say on the issue soon.”

Modernizing ingredient labels

Gottlieb announced the agency’s intent to take a “fresh look” at standards of identity, given today’s marketing trends and advances in technology and nutritional science. For example, there is a need to modernize the yogurt standard of identity, the standards of identity for certain cheeses do not permit the use of salt substitutes that could result in lower sodium content, and some standards are no longer in use. Gottlieb reiterated that the Strategy’s priority is public health and that “flexibility is key.”

Implementing the nutrition facts label and menu labeling

Gottlieb stated that FDA needs to finish its work on menu labeling and will soon finalize its [guidance document on the menu labeling requirements](#). With respect to the new nutrition facts label, Gottlieb was keenly aware that this rule presented a unique challenge for FDA in creating a set of rules with a broader range of stakeholders than the other areas that the agency regulates. Gottlieb acknowledged that “this is something we need to remain cognizant of, and it’s why our public engagement needs to be robust.” With respect to nutrition labeling, Gottlieb promised to provide clear expectations “so that industry can meet them.”

To support its Strategy, Gottlieb described the upcoming launch of a major educational campaign directed at educating consumers about the new nutrition information. The campaign will include educational videos, social media campaigns, and user-friendly websites. Among other things, the campaign will provide “actionable tips,” such as “simple swaps” for healthier food choices. Where possible, FDA will target its efforts toward certain subgroups at greater risk for nutrition-related chronic disease.

Covington & Burling’s food and beverage lawyers have extensive expertise in FDA’s food nutrition labeling and food claims regulations. We continuously monitor developments in these areas, and in particular, FDA’s actions related to the agency’s new nutrition initiatives. If you have any questions concerning food labeling developments discussed in this alert or other food regulatory matters or would like assistance in preparing comments to FDA on the issues described above, please contact any of the following attorneys in our Food & Beverage Practice group or visit our food, beverage and dietary supplements practice website:

Food, Beverage, and Dietary Supplements

Miriam Guggenheim

+1 202 662 5235

mguggenheim@cov.com

Jessica O'Connell

+1 202 662 5180

jpoconnell@cov.com

MaryJoy Ballantyne

+1 202 662 5933

mballantyne@cov.com

Stephanie Resnik

+1 202 662 5945

sresnik@cov.com

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