



## Troubled? Ticked off?

*The Food Law guy is back with more answers to your legal questions*

DEAR FOOD LAW GUY:

I am concerned about the cynicism in your March column. You wrote: "There is little understanding in Ottawa that the main obstacle to innovation in the food industry is not lack of know-how, or even funding. The main problem is our sclerotic food regulatory system." You have said that before. What disturbs me is your new tone when you conclude, "Nobody in the industry should believe that anything is actually going to change anytime soon." Why have you given up on arguing for the reform we so desperately need?

*Lynn in London, Ont.*

DEAR LYNN:

You're not the only reader to chastise me for this, so I should explain. Frankly, I was getting bored with my tiresome rants about our regulatory system and I assumed that this was likely the case with my readers. I don't accept invitations to speak about our regulatory system any more because I end up sounding like a grumpy old man when I'm actually a very happy fellow.

As I predicted, the Smart Regulation initiative, like Legislative Reversal, was a complete waste of everyone's time. The real issue is nowhere on Ottawa's agenda and the food industry, the second largest manufacturing sector in Canada, is not concerned enough, collectively, to put it there. The delays and missed targets continue. The government's own target date for a new regulatory framework for product-specific health claims has come and gone. The very specific commitment to address the unacceptable delays for pre-market approvals (such as for new additives) has not been met. Consider this case I had last week. A certain additive can be put in hundreds of food products, including baby formula and canned peas. But find me a single federal public servant or politician who is willing to stand up and explain what public policy objective is achieved by taking over three years to get government approval to add it to a can of beans. Until then, I'm going to put my energy into helping my clients work within and around the system and give up on any real change any time soon.

DEAR FOOD LAW GUY:

I was told that the delay in approving new health claims is due to the fact that legislation would be required to amend the *Food and Drugs Act*. Is this true?

*Paul in Peterborough, Ont.*

DEAR PAUL:

No. It only took regulatory change to bring in the five approved diet-related health claims in 2002. The problem is not legal; it is bureaucratic. Canada doesn't allow an expanded list of health claims because Health Canada officials don't really want one. They need more analysis. This is the same reason why Canada still lacks a comprehensive regulatory framework for functional foods with health attributes. Add in the confusion with natural health products (and the delays there), and our limited list of biological role claims compared to our competitors, and you can easily understand the frustration of industry. It is not a pretty sight.

DEAR FOOD LAW GUY:

People keep saying that it's better to shop at the grocery store for wellness than the drugstore to treat illness. There are hundreds of books and magazines on health and foods filled with contradictory advice and I don't understand food labels. Where can I get reliable information on what foods can have a positive influence on specific diseases?

*Tracy in Trout Creek, Ont.*

DEAR TRACY:

When the premier of Ontario saw that health care cost 42 per cent of the provincial budget, and when he was advised that this could rise to 70 per cent as the baby boomers reach retirement and new costly technologies and drugs are developed, he instructed Ontario Agri-Food Technologies to come up with a way to encourage people to "reach for the kitchen cabinet as often as to the medicine cabinet." What he got was a clear, no-nonsense website ([www.vhqfoods.ca](http://www.vhqfoods.ca)) that provides a one-stop source for nutrition and health information in a consumer-friendly format. So, for example, if you're worried about colon and rectal cancer, click to that page and you'll get advice on the relationship between food and these illnesses. The site also provides many useful links to other respected sources of information. This is just a beginning. The project has huge potential to help people eat for health and save on drug costs. Who could argue against that?

---

*Ronald L. Doering, BA, LL.B, MA, LL.D, practises food law in the Ottawa offices of Gowling Lafleur Henderson LLP. He can be reached at: [ronald.doering@gowlings.com](mailto:ronald.doering@gowlings.com)*