



January 16, 2019

Ms. Karen McIntyre
Director General, Food Directorate
Health Products and Food Branch
Health Canada

Sent via: hc.bpiia-bpaii.sc@canada.ca

RE: Comments on Guide to the Application of the Child Health Protection Act (Bill S-228) Draft for comments Version 1.0 December 12, 2018

The Baking Association of Canada (BAC) has been very involved in the development of the application of the Child Health Protection Act (Bill S-228). Regarding the request to provide comments on the most recent Guidance document we must express disappointment and frustration in the process undertaken by Health Canada.

To begin we are confused for gathering comments for a consultation on a guidance document when the enabling legislation (S-228) has yet to receive Royal Assent, and the ensuing regulations have not been made publically available for comments under the normal stakeholder consultation process. Industry is therefore being asked to respond on guidance criteria without the benefit of prior disclosure of approved legislation or regulations.

In addition to our concern about how the process is unfolding, we are also faced with other shortcomings and inconsistencies in this consultation process. In particular:

- **Ambiguities and Contradictions:** The December 12 draft document conflicts, without explanation, previous statements/positions by Health Canada as currently displayed on its website (<https://www.canada.ca/en/health-canada/programs/consultation-restricting-unhealthy-food-and-beverage-marketing-to-children/update-proposed-regulations.html>)
- **Untimely and Short Timeline Consultation Period:** This consultation is both untimely and short as it takes place over the Holiday period significantly reducing the capacity to consult with members. We request an extension of minimum 3 weeks beyond the dates of Health Canada's consultations that have been promised to industry.

- Change in the Nutrition Criteria without Explanation: The changes proposed to the nutrition criteria are significant and are presented without explanation.
 - a. Why does the nutrition criteria now include foods with no added fat, no added sodium and containing no sugars except for naturally occurring sugars in fresh fruits and vegetables, dairy, grains, legumes, nuts and seeds?
 - b. There is no explanation on why the nutrient criteria for main dishes with a reference amount above 200g is the same as for individual foods.
 - c. There is no explanation why the FOP criteria has been removed.

- Lack of Rationale for Including In-Store Merchandising: The consultation now includes criteria for in-store displays, sampling counters and booth, banners, posters, promotional items and branded merchandise which deviates significantly from the Prime Minister's Mandate Letters to the Ministers of Health. It is also still unclear if Health Canada intends to propose further packaging restrictions which has substantial material implications for industry and for any future cost benefit analysis.

- Lack of Information to Effectively Review and Comment on the Guide: We have already noted that Health Canada has set an arbitrary date of January 17, 2019 for industry comments regarding the Guide. However, Health Canada has also disclosed that it plans to undertake its initial broad industry stakeholder engagement on the Guide via a series of webinars on January 28 & 29 2019, almost two weeks after the close of the consultation period. Health Canada has also committed to sector specific engagement which it has yet to initiate. We are therefore confused on why Health Canada would ask for comments prior to providing both broad based industry information sessions along with sector specific discussions. At a minimum we would recommend that Health Canada should reconsider its due date for this consultation until after it has completed its broad stakeholder outreach along with sector specific discussions.

BAC will continue to engage at all stages of Health Canada consultation process on this issue. Please feel free to contact us for further information or clarification.

Sincerely,



Johanne Trudeau, RD
Director Food & Nutrition Policy