

Food Labeling: The Basics & Recent Challenges

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Naturally Boulder – Packaging with a Punch

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Who is Regulating What? The Jurisdiction Split

FTC (Advertising)

USDA - FSIS

Pepperoni

Sausage

FDA

Cheese, crust,
tomato sauce (if
no meat),
veggies

TTB



FDA

Wine with <7%
alcohol and beer
not made with malt
(sorghum, rice,
wheat beers)



False or Misleading (Misbranding)

- ▶ **Basic test:** Food is misbranded if its labeling is false or misleading
- ▶ States all generally adopt this standard, as well as many of the particular types of misbranding under FFDCA
- ▶ Food can be both *expressly misbranded or misbranded by omission* – i.e., both based upon what it states as well as for what it fails to state



Mandatory Labeling Requirements

- ▶ Statement of Identity
- ▶ Net quantity/weight
- ▶ Nutrition facts
- ▶ Ingredient list (if >1)
- ▶ Name/place of mfg./packer/dist.
- ▶ Allergens (mandatory for FDA/advisory for USDA)



Nutrition Facts

Serving Size 51 Crackers (30g)
Servings Per Container About 10

Amount Per Serving			
Calories		150	
Calories from Fat		60	
			% Daily Value*
Total Fat	7g		11%
Saturated Fat 1g			5%
Trans Fat 0g			
Cholesterol	0mg		0%
Sodium	250mg		10%
Total Carbohydrate	19g		6%
Dietary Fiber 0g			0%
Sugars 0g			
Protein	3g		

Vitamin A 0% • Vitamin C 0%
Calcium 2% • Iron 2%

*Percent Daily Values are based on a 2,000 calorie diet. Your daily values may be higher or lower depending on your calorie needs:

	Calories:	2,000	2,500
Total Fat	Less than	65g	80g
Sat Fat	Less than	20g	25g
Cholesterol	Less than	300mg	300mg
Sodium	Less than	2,400mg	2,400mg
Total Carbohydrate		300g	375g
Dietary Fiber		25g	30g

BEST INGREDIENTS: Organic Wheat Flour, Organic Expeller-pressed Sunflower Oil, Salt, Organic Valley® Organic Cheddar Cheese (organic pasteurized milk, cheese culture, salt, enzymes), Organic Annatto Extract For Color, Yeast, Organic Paprika, Organic Cultured Whole Milk, Organic Nonfat Milk, Organic Ground Celery Seed, Organic Onion Powder.

CONTAINS MILK AND WHEAT INGREDIENTS.

Made on shared equipment that also processes soy.

MADE IN USA FOR ANNIE'S HOME GROWN
1510 5TH STREET, BERKELEY, CA 94710
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Certified Organic
by Oregon Tilth

We work with trusted suppliers to source only non-GMO ingredients.



We Love to Hear Your Feedback! Contact Us at www.Annies.com or 1-800-283-1089 and Reference the "Best By" Date on the box top. Store in a Cool, Dry Place.

NLEA-Based (and Related) Claims

- ▶ Nutrient Content Claims
- ▶ Structure-Function Claims
- ▶ Health Claims & Qualified Health Claims
- ▶ Healthy
- ▶ Fresh



Nutrient Content Claims

What Are They?

- ▶ Claims describing the level of a nutrient in a food (e.g. “high”, “low”, “free”) or in comparison to another food (“more” or “less”)
- ▶ Express and implied
 - Express: “low in sodium”
 - Implied: “high in oat bran” (suggesting high in fiber)
- ▶ Made in reference to an FDA-established RACC and a FDA-established DV/RDI
- ▶ Only those nutrient content claims defined in the regulations are acceptable for use



Health Claims: What Are They?

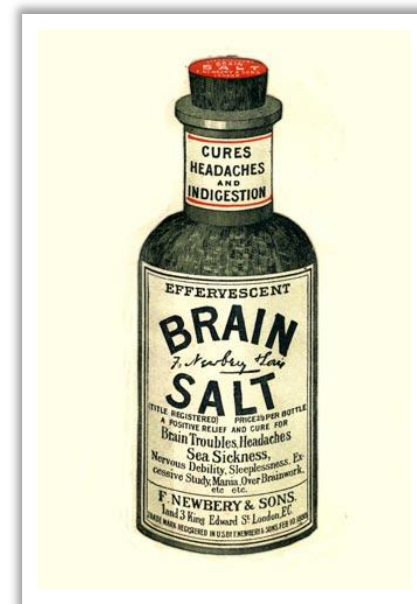
- ▶ Claims that describe relationship between food and a disease/health issue
- ▶ Short list of pre-approved health claims for FDA-regulated foods
- ▶ USDA considers, on case-by-case basis
- ▶ Can be unqualified or qualified



Structure/Function Claims

What Are They?

- ▶ Claims which describe how a substance
 - Affects the normal structure/function of the body
 - Helps maintain that normal structure/function
 - May provide a benefit related to a nutrient deficiency disease
- ▶ E.g. “calcium builds strong bones” and “fiber maintains bowel regularity”
- ▶ Do not require FDA pre-approval, but still must not be false or misleading



Structure/Function Claims

- ▶ How do these differ from health claims? No disease claims...

Disease (Bad)

Cures or treats your cold

Prevents osteoporosis

Treats or cures IBS

Prevents heart attacks due to coronary heart disease

Non-Disease (OK)

Helps support your immune system's function

Calcium builds strong bones

Fiber maintains bowel regularity

Omega-3 DHA helps maintain brain, eye and heart health

Organic

- ▶ NOP – USDA regulated
- ▶ 100% Organic
 - 100% by weight/volume (excluding water & salt)
 - May use USDA seal
- ▶ Organic
 - 95%+ organic content
 - May use USDA seal
- ▶ Made with organic _____
 - 70%+ organic content
 - May list up to 3 foods or food groups
 - May not use USDA seal
- ▶ If less than 70%
 - Cannot use “organic” on PDP
 - But may identify specific ingredients as organic.



Natural - How Does FDA Define “Natural”?

- ▶ Holds to the policy it outlined in 1993

“FDA has not established a formal definition for the term ‘natural’, however the agency has not objected to the use of the term on food labels provided it is used in a manner that is truthful and not misleading and the product does not contain added color, artificial flavors, or synthetic substances. Use of the term ‘natural’ is not permitted in the ingredient list, with the exception of the phrase ‘natural flavorings.’”

- ▶ “Natural” only defined in terms of Natural Flavors
- ▶ Has long resisted making any definition for other foods (several petitions have been outstanding for years)



“Natural” Early Targets for Lawsuits

- ▶ High Fructose Corn Syrup (HFCS) (Snapple, Arizona Beverages, Nature Valley bars, Healthy Choice pasta sauce)
- ▶ Citric acid (enzymatically-made, solvent washed) in juices
- ▶ Alkalized Cocoa (Ben & Jerry’s)
- ▶ Potassium carbonate (Skinny Girl Margaritas)
- ▶ Other products made through use of enzymes, solvents, acids, bases, etc.
- ▶ By 2011, almost weekly filing of lawsuits



Natural - Where Are We Now?

- ▶ Low Hanging Fruit
- ▶ New Types:
 - GMO-derived
 - Extraction methods (hexane/solvent extraction of soy, etc.)
 - Synthetic vitamins
 - Use of flavor packs
 - High Pressure Pascalization
 - Inulin
 - Stevia
- ▶ Added colors issue
 - All added colors are “artificial”, regardless of source
 - “Artificial colors” means not “Natural”.

NATURAL VERSUS ORGANIC SERIES



Toxic Chemicals: Banned In Organics But Common in “Natural” Food Production

Soy Protein and Chemical Solvents in Nutrition Bars and Meat Alternatives

November 2010

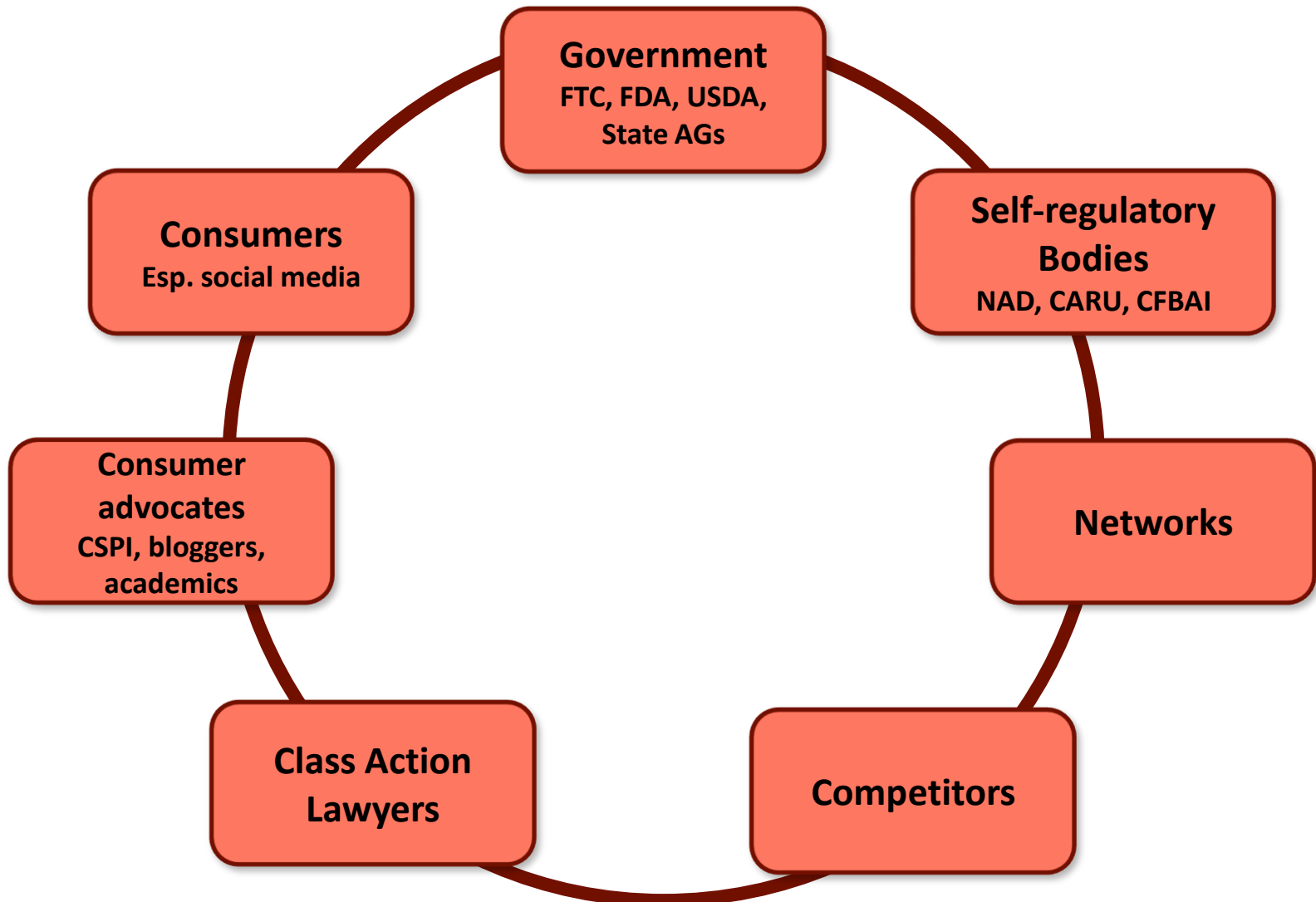


Other Misc. Claims

- ▶ “Green” claims (FTC Green Guides)
- ▶ Gluten Free (<20 ppm gluten)
- ▶ “Made in USA” (FTC/California)
- ▶ Non-GMO (no standard)
- ▶ Undefined:
 - Artisan
 - Simple
 - Local
 - Wholesome
 - Nutritious
 - Traditional
 - Ancient
 - Homestyle



Who's Looking at Labels?



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