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CANADIAN ADVERTISING & MARKETING LAW

Young & Fraser
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Canadian Advertising and Marketing Law provides complete coverage of all the laws governing the advertising and marketing of products in Canada. It is designed for both legal professionals and the marketing and advertising professionals they represent.

This release features updates to Chapter 7: Specific Product Advertising.

Highlights:

- **Part I: Commentary—Chapter 7: Specific Product Advertising—7:17. Advertising, Packaging and Labelling—Packaging and Labelling**—There are certain basic guidelines for food labelling, however, which are set out in Division 1 of Part B of the Regulations. Virtually all prepackaged food products must carry a label when offered for sale. Certain other products, including food additives, horse meat and meat and poultry products that are cooked on retail premises must also carry a label. “Label” is defined broadly in section 2 of the FDA to include any legend, word or mark attached to, included in, belonging to or accompanying the food. “Prepackaged product” is defined under the Regulations to mean any food that is contained in a package in a manner in which it is ordinarily sold, used or purchased.

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- **Part I: Commentary—Chapter 7: Specific Product Advertising—**
7:41. Diet-Related Health Claims—Effectively, apart from these limited, specified diet-related disease claims and “biological roles claims”, no other health claims were permitted for foods. Any manufacturer hoping to introduce a diet-related disease claim for a food was required to apply to Health Canada for pre-marketing approval and to seek a regulatory amendment to permit the claim. More recently, however, Health Canada has indicated a policy shift to allow food manufacturers to make health claims for food (other than claims that related to a Schedule A disease) provided that the claims are truthful, not misleading and are substantiated with the appropriate evidence. This policy is not reflected in any regulatory amendment and must therefore be approached with caution. Health Canada has issued guidance documents for preparing health claims submissions for foods, where pre-market approval is required (such as for claims relating to a Schedule A disease). However, even where, ostensibly under this new policy, Health Canada pre-market approval is not required, a prudent manufacturer will want to review these guidance documents for direction as to the type of substantiation that Health Canada generally considers acceptable for such claims.