

FAB FOOD LAB

*creating better food for you and the planet
- or are we?*

2024 ANA Masters of Advertising Law Conference/Food Marketing

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New Food Product Development

The complete process of:

- Strategy
- Organization
- Concept Generation
- Product & Marketing Plan Creation & Evaluation
- Commercialization of New or Novel Product



New Food Product Development

New Product Development involves five key phases:

- Strategic Development of New Product
- Product and Vendor Approval
- Brand Development and Commercialization
- Print/Pack/Ship
- Product Launch



Legal Implications

- › Regulated food product
- › Ingredients List/Allergens/Additives
- › Supplier/Sourcing
- › Supply Chain/Vendor Contracts
- › Labeling/Packaging
- › Health, Natural and Other Claims
- › Deceptive/Misleading Marketing
- › Intellectual Property
- › Recalls
- › Bans/Boycotts



Reinventing the Foods We Eat

Alternative Proteins

- Cellular Agriculture/Cell-cultured
- Plant Based Food

Reinventing the Foods We Eat - Cell-based Meat

- Cellular agriculture - based on cultivated animal cells grown in bioreactors to provide the same taste and texture as traditional meat products.
- Regulated by the Federal Food and Drug Administration (FDA) under the Federal Food, Drug and Cosmetic Act (FDCA)
- The U.S. Department of Agriculture (USDA) has jurisdiction over the labeling of meat and poultry products, which includes most cultivated meat products.

Reinventing the Foods We Eat - Cell-based Meat

- The FDA and USDA - developing joint principles for product labeling to ensure cultivated cell products are labeled consistently
- Public comment sought
- No rules or guidance yet specifically related to labeling cell-cultured meat products.

Reinventing the Foods We Eat - Cell-based Meat

- Advancements in cell culture technology are enabling food developers to use cells obtained from livestock, poultry, seafood and other animals to produce food outside the animal itself, in a controlled environment, in basically a four-step process.
- Steps 1, 2, 3 – regulated by FDA
- Step 4 – regulated by USDA/FSIS

Cellular Agriculture – Step 1

- Manufacturers typically start with a sample of cells from the tissue of an animal – a process that does not involve death or injury to the animal. Some of the sample cells are selected, screened, and grown to build a bank of cells to store for later use.

Cellular Agriculture – Step 2

- A small number of cells are taken from the cell bank and placed in a tightly controlled and monitored environment such as a bioreactor that supports growth and cellular multiplication by supplying appropriate nutrients and other factors.

Cellular Agriculture – Step 3

- After the cells have multiplied many times into billions or trillions of cells, substances are added into the controlled environment to enable the cells to differentiate into various cell types and assume characteristics of muscle, fat, or connective tissue cells.
- Additions such as amino acids, glucose, inorganic salts and other factors are used to encourage further growth, multiplication and differentiation.

Cellular Agriculture – Step 4

- Once the cells have differentiated into the desired type, the cellular material can be harvested from the controlled environment and prepared using conventional food processing and packaging methods.

Reinventing the Foods We Eat – Plant Based

Plant-based proteins derive from sources such as soy, peas, rice and increasingly mushrooms

Introducing . . . *Meet Steak'shrooms*



- Satisfying texture
- Same great taste
- Healthy & clean
- Complete protein source
 - › Includes the 9 essential amino acids
 - › Boosts human nutrition
 - › Supports brain health
 - › Supports everything
- The future of food

Introducing . . . Meet Chicka'shrooms



- Satisfying texture
- Same great taste
- An array of flavor profiles
- Delightfully absorbs sauces
- Healthy Nutrition Booster
- Farm fresh
- The future of food

Meet Steak'shrooms & Chicka'shrooms



FDA requires all food product labels to conspicuously specify the name and place of business of the manufacturer, distributor, or packer, which provides consumers with the necessary information to contact the firm to obtain information about a specific food product.

Reinventing the Foods We Eat – Labeling

A meat by any other name?



Fair and Accurate Ingredient Representation
(FAIR) Labels Act of 2024

Authorizes the USDA to regulate labeling standards for both cell-cultured and “imitation” meat and poultry products.

Reinventing the Foods We Eat – FAIR Labels Act

- Defines meat as food which uses “a market name, descriptor, or iconography for, or is otherwise represented as, meat or meat food product, but does not contain meat, meat food product, or meat byproduct ingredients.”
- Imitation meat can also be a food product that was manufactured to appear as meat or to approximate the aesthetic qualities of or chemical characteristics of specific types of meat, such as a tofu “burger” which contains no meat, meat food product, or meat byproduct ingredients.”
- Defines “imitation chicken” as food which uses names, descriptors, or icons representing itself as a poultry product that does not actually contain any poultry or poultry product, such as a plant-based “chicken nugget.”

Reinventing the Foods We Eat – Fair Labels Act

- Requires imitation meat and imitation poultry products to indicate in a prominent and conspicuous manner the word “imitation” or a statement that the imitation meat or poultry is derived from a source other than meat or poultry “in type of uniform size and prominence, immediately adjacent to the name of the food on the label.”
- The packaging of the imitation meat or poultry product also would be required to bear a disclaimer clearly indicating that the imitation meat or poultry does not contain meat or poultry and is not derived from meat or poultry.

Reinventing the Foods We Eat – Fair Labels Act

- Amends the definition of “meat food product” to include “cell-cultured meat product,” and the definition of “poultry food product” to include “cell-cultured poultry product.”
- The packaging of the imitation meat or poultry product also would be required to bear a disclaimer clearly indicating that the imitation meat or poultry does not contain meat or poultry and is not derived from meat or poultry.

Reinventing the Foods We Eat – Real MEAT Act

- The Real Marketing Edible Artificials Truthfully Act – reintroduced in November 2023
- Would require alternative protein products to clearly display the word “imitation” on packaging.
- Would define “beef” as “the flesh of the cattle,” and “beef product” as “edible products produced in whole or in part from beef, exclusive of milk and milk products.”
- Similar definitions would be required for pork and pork products.
- Definition of “meat,” “meat byproducts,” and “meat broker” would be based on definitions established in the CFR.

Meet Steak'shrooms & Chicka'shrooms



The Nutrition Labeling and Education Act (NLEA) requires food manufacturers to disclose nutritional information if they make nutritional claims covered under NLEA on their labels



Meet Steak'shrooms & Chicka'shrooms

- The FDA established January 1, 2026, as the compliance date for all food labeling regulations that are published on or after January 1, 2023, and on or before December 31, 2024.
- The USDA established the same date of January 1, 2026, as the compliance date for all food labeling regulations that are published on or after January 1, 2023, and on or before December 31, 2024.

FDA Proposed Rule to Update Definition of “Healthy” on Labels

The FDA’s comment period pertinent to its proposed rule updating the “healthy” claim for food labeling set in 1994 to be consistent with current nutrition science and federal dietary guidance closed in December 2022. Under the proposed rule:

- Use of the claim “healthy” is voluntary
- The FDA believes claims of “healthy” on food labels can provide useful information to consumers to help them identify healthier food choices at a quick glance



FDA Proposed Rule to Update Definition of “Healthy” on Labels

- To characterize a food as “healthy,” the food must meet specific nutrient related criteria.
- To meet the proposed definition, a food product would need to contain a certain amount of food from at least one of the food groups or subgroups recommended by the 2020-2025 Dietary Guideline for Americans, such as fruit, vegetables, grains, dairy and protein foods.



Introducing . . . *Meet Gummy'shrooms*



- Sweet & Satisfying
- Boosts energy
- Fruity & flavorful
- Bright & cheery
- Healthy
- Future of Food

Meet Gummy'shrooms

The FDA's Nutrition Facts Label rules updated in 2022 also require:

- Listing of added sugars, vitamin D, and potassium
- Manufacturer declaration of the amount in addition to % Daily Value for vitamins and minerals



Meet Gummy'shrooms

Kominis v. Starbucks Corp.

U.S.D.C. Case 1:22-cv-0663 (S.D.N.Y. Sept. 18, 2023)

- Putative class action alleging that Starbucks falsely implies its Refresher fruit-based beverage products contain the referenced fruit when they do not, and that the chief ingredients actually are “predominantly made with water, grape juice concentrate and sugar.”
- The District Court denied motion to dismiss, reasoning that “a significant portion of reasonable consumers” would expect their drinks to contain fruit mentioned in their names.

Meet Gummy'shrooms

On March 16, 2023, the FDA confirmed a final rule expanding safe use of spirulina extract and amending the color additive regulations for that purpose.

- The color additive will be used in condiments and sauces, dips, dairy product alternatives, salad dressings, unheated seasoning mixes, alcoholic beverages with less than 20 percent alcohol-by-volume content, and non-alcoholic beverages.
- The rule went into effect on December 13, 2022.

Introducing . . . *Meet Choco'shrooms*



- Sweet & Satisfying
- Boosts energy
- Decadent & delicious
- Healthy
- The future of food

Meet Choco'shrooms

Allergens and Additives - History

- The FDA conducts inspections and sampling to confirm that major food allergens are properly labeled on products and to confirm that food facilities implement controls to prevent cross-contamination via allergen cross-contact
- In the event of problems, the FDA works with companies to recall food products and to provide immediate notification to consumers



Meet Choco'shrooms

Allergens and Additives – History

- The FDA's enforcement powers extend to seizure and removal of violative products from the marketplace and allow the FDA to refuse imported products from entry into the United States.



Meet Choco'shrooms

Allergens and Additives

- The name of a major allergen's food source must be declared on the food label in one of two ways:
 - In parentheses following the name of the ingredient; e.g., flour (wheat), lecithin (soy), whey (milk); or
 - Immediately after or next to the list of ingredients in a “contains” statement; e.g., “Contains whey, and milk.”



Meet Choco'shrooms

Allergens and Additives

- On April 18, 2022, the FDA issued a draft guidance for FDA staff and other stakeholders titled *Evaluating the Public Health Importance of Food Allergens Other Than the Major Food Allergens* listed in the Federal Food, Drug, and Cosmetics Act.
- When finalized, the draft guidance will outline the FDA's current thinking as to how to evaluate the public health importance of food allergens that are not one of the nine major food allergens recognized by law.

Introducing . . . *Meet Magic'shroom Brownies*



- For adults
- A safe way to play
- Boosts calmness
- The future of food

Meet Magic'shroom Brownies

The California Food Safety Act

- approved by Governor Gavin Newsom on October 7, 2023
- prohibits manufacturing, selling, delivering, distributing, holding, or offering for sale a food that contains brominated vegetable oil (used in sodas), potassium bromate (used in baked goods/dough-based foods), propylparaben (preserves packaged foods like pastries or tortillas), or *red dye 3*.
- The CFSA and its implementing regulations will become effective on January 1, 2027.

Sustainability & Environmental Claims



- Natural
- No pesticides
- Compostable
- Greenwashing
- Great for environment
- No carbon footprint

Environmental Concerns/Sustainability

- › Sustainability has become increasingly important to consumers with respect to food and food packaging.
- › Regulations surrounding packaging are diverse across different countries.
- › According to a report by McKinsey & Company, most regulations “tackle the following end-to-end elements: packaging specifications (such as composition, size, and weight); attributes of packaging (for example, recyclability and biodegradability); expected primary use of packaging (for example, labeling and traceability to promote customer empowerment); packaging chain, from raw-materials sourcing to disposal, including collection and sorting schemes and reuse or recycling target setting.”
- › Regulation of packaging is still in early stages; critical space to watch

Environmental Concerns – Plastics/Pollution

- › California “Plastic Pollution Prevention and Packaging Producer Responsibility Act” generally aims to cut 25% of single-use plastics, recycle 65% of single-use plastics, and make all single-use plastic packaging and food ware recyclable or compostable by January 1, 2032.
- › Bans/regulation of other single-use plastics like plastic bags on the rise.
- › Other countries have also taken action in various ways to minimize environmental concerns through regulation with the aim of reducing the amount of single-use plastics. Countries that have taken some action include, Canada, China, Chile, and many others



Controversy and Concerns

- › Political lines being drawn
- › First Amendment implications?
- › In 2024, four states (Florida, Alabama, Tennessee and Arizona) considered legislation banning the manufacture, sale, or distribution of cell-cultured meat. Florida and Alabama each passed such legislation, which was then signed into law by the respective governors of each state. The Tennessee bills were not introduced before the end of the legislative session, and the Arizona bill passed in that state's House but failed in the Senate.

Controversy and Concerns

- › Florida became the first state to ban cell-cultivated meat on May 1, 2024. The law prohibits the manufacturing for sale, selling, holding or offering for sale, or distribution of cultivated meat, and defines cultivated meat as “any meat or food product produced from cultured animal cells.” The law went into effect on July 1, 2024.
- › Similarly, on May 7, 2024, the Alabama governor signed into law a measure prohibiting the manufacturing, selling, holding or offering for sale, or distribution of any cultivated food product in Alabama. The law similarly defines a cultivated food product as any food product produced from cultured animal cells. The law went into effect on October 1, 2024.

Questions?
