

Alternative Open-Dating Systems

There are three basic systems that could be used for open dating: private voluntary system, mandatory system, and voluntary/mandatory system. With a private system, the industry develops and adopts standards voluntarily. With a mandatory system, the use of open dates would be required by law. If the system were nationwide, the Federal Government would develop regulatory guidelines. Under a voluntary/mandatory system, only processors who elect to open date their products would be required to follow Federal guidelines.

An outline of the three systems is given in this chapter. For an analysis of congressional options among these systems, refer back to chapter I.

VOLUNTARY SYSTEM

This system is in current use because processors who open date their food products have chosen to do so. It is the preferred system by many processors because it allows flexibility in terms of:

1. whether or not to open date,
2. which products to date,
3. which date to use, and
4. which tests to use to determine the date.

On the other hand, the system has led to confusion because there are no standards to

be followed. Some processors date their products, while others do not. Those that do can select any date, can display it in any fashion, and can establish the date by any testing procedure.

This nonuniform system also can make it more difficult for inventory control in the distribution channel, which can result in food waste. In addition, it can increase food waste in the home because the consumer does not know the food is approaching an unacceptable quality level.

MANDATORY SYSTEM

The mandatory system is used in 21 States and the District of Columbia for open dating of some food products—mostly milk and milk products. As with the voluntary system, there

is no uniformity on a national scale. Since nationwide distributors must meet different State requirements, the result is higher costs, which mean higher prices for consumers.

A Federal mandatory system is preferred by many consumer representatives because it would provide:

1. uniform regulations throughout the United States,
2. tighter inventory control in the distribution channel, and
3. higher quality and nutritive levels for some foods.

The major impact of the system would be on the processor. It would be very difficult for processors to comply with a mandated sell-by or best-if-used-by date within the next 2 to 5 years, particularly for semiperishable and long shelf-life foods. This is because there is a lack of currently available data on shelf-life stability for many food products. A mandated sell-by or best-if-used-by date at this time would force "manufacturers to guess about the shelf life of their products and/or to extend the known shelf life of one product to encompass other similar products, which would not necessarily benefit the consumer. Time to phase in the program would allow industry to establish the necessary data on shelf life of their food products,

An alternative would be that the regulatory agency could mandate that all food in a certain category had to meet a minimum date. If a company could not afford testing to demonstrate a longer shelf life, they could use the established, mandated minimum. If they could demonstrate a longer shelf life, they could use that date. If their product could not meet the minimum shelf life, they would either have to change the process, go out of business, or challenge the legality.

Objections to this alternative include the fact that a minimum shelf life for a product would be similar to a standard of identity, which specifies the minimum composition of many processed foods. The Government would have to identify criteria for each particular food category and be able to defend the criteria and the minimum shelf life. For example, if the Food and Drug Administration (FDA) developed a best-if-used-by date for each product category, the agency would, in

effect, be assuring the public that the product is good.

It is more probable that the regulatory agency involved would have to go to the opposite extreme and determine the maximum date that could be put on a product unless the manufacturer could prove otherwise. Since the process would have to be repeated for each specific food, it would be very costly to the Government.

Manufacturers could presently identify and indicate the pack date if it were mandated. The pack date would have to be defined as the date the product was put into the final consumer package for sale and use. However, there are problems in defining the pack date, which were discussed in an earlier chapter, mainly for multicomponent products. If the pack date were mandated, the printing system for the present codes would have to be changed, but the system could be initiated immediately.

The impact of a mandatory system on retailers and wholesalers would vary, generally by size of operation. That is, smaller businesses tend to have fewer inventory turnovers per unit of time, so they could be adversely affected by out-of-date stock. Mandatory open dating would likely have the least impact on national chains, the next least impact on smaller independent retailers/wholesalers, and the greatest impact on "mom and pop" stores. Convenience stores would be affected much like national chains.

Because of the potential adverse impact on small retail stores, a mandatory system might exempt smaller stores, based on number of employees or gross dollar sales. However, such an exemption could mean that these stores would receive products that were pulled after date from shelves of larger nonexempt stores and shipped to them by distributors (either manufacturers, representatives, or wholesalers). In the end, an exemption could work to the disadvantage of small retailers, regardless of the intent of the exemption.

Some consumers prefer a completely mandatory system, arguing that it would both educate consumers about how long a food can

last as well as help stock rotation. Under a voluntary system, these benefits are piecemeal.

VOLUNTARY/MANDATORY SYSTEM

This system would combine the characteristics of the voluntary and mandatory systems by allowing the processors the choice of open-dating food products, but requiring that once they elect to do so, they must do it in a prescribed manner. This is essentially the system used for nutrition labeling.

A voluntary/mandatory system would have a number of the advantages of the two other systems. It would allow the processor to choose whether or not to open date and to elect which products to date. However, since the processor who elects to open date must do it in a certain way, the result would be uniform open dating throughout the United States. Also, because processors would have a choice about open dating their products, this system should not have an adverse effect on smaller processors or retailers,

Of course, another factor to consider is consumer pressure. Consumers could effectively pressure processors who do not use open dating by purchasing products from those firms that adopt open dating.

This had been the case under the voluntary/mandatory system on nutrition labeling. In 1973, when nutrition labeling regulations were issued, very few products had a nutrition label. By 1978, 40 percent of the leading national brands, 25 percent of the remaining

national brands, and 44 percent of private labels displayed nutrition information on major packaged processed foods. In terms of dollar sales, this represents 39 percent of the \$24 billion of packaged processed foods sold.¹

The voluntary/mandatory system appeals to processors because it allows them the option about open dating their products. It also allows them time to collect scientific data on a product-specific basis to determine the dates.

The system also appeals to many consumers because when products are open dated, every processor must meet specific requirements. This provides for a more uniform system and reduces consumer confusion.

However, compared with the voluntary system, this system would increase costs to Government for developing and enforcing the regulations and would increase costs to industry for complying with the regulations. In addition, developing the regulations in the first place would be time-consuming for both Government and industry.

¹Raymond Schucker, "A Surveillance of Nutrition Labeling in the Retail Packaged Food Supply" (Washington, D. C.: U.S. Department of Health, Education, and Welfare, Public Health Service, Food and Drug Administration, 1978).