

### Regulatory impact in food and beverages

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On March 27, 2020, the Ministry of Economy published in the Official Federal Gazette the amendment of the Official Mexican Standard NOM-051-SCFI/SSA1-2010, regarding “*General labeling specifications for pre-packaged food and non-alcoholic beverages – Commercial and health information*” (“**NOM**”).

The process of creation and the contents of this NOM have generated some uncertainty and some criticisms in both the industry and society in general since they imply a significant change from what is currently applicable in Mexico regarding the characteristics and information that pre-packaged food and non-alcoholic beverage labels must contain.

The changes in the labeling system apply to all pre-packaged food and non-alcoholic beverages intended for the final consumer, produced nationally or internationally, that are sold in Mexico, except for the following:

- (i) Those that are sold in bulk;
- (ii) Those that are packaged at the point of sale; and
- (iii) The products to which another specific NOM applies that does not refer to NOM-051.

Other products exempt from some of the provisions of the NOM are:

- a) products composed of a single ingredient;
- b) herbs, spices or a mixture thereof;
- c) coffee extracts, regular or decaffeinated whole or ground coffee beans that do not contain added ingredients other than flavoring;
- d) herbal infusions, regular or decaffeinated, instant and/or soluble teas that do not contain added ingredients;
- e) fermented vinegars and substitutes;
- f) water for human consumption and natural mineral water;
- g) products with a surface area less than 78 cm<sup>2</sup>, which must declare the information on their website;
- h) infant formulas;
- i) food and non-alcoholic beverages for infants and small children with certain nutritional specifications; and
- j) vegetable oils, vegetable or animal fats; sugar, honey, iodized salt and fluorinated salt, as well as cereal flours.

In general, the entrance into force of this NOM will have the following consequences:

- An obligation to put octagonal stamps – *in black and white* – on the upper right hand part of the packages of all the food and beverages that according to the NOM are high in: calories, sodium, trans fats, sugars and saturated fats; as well as the inclusion of warning captions that indicate the caffeine and sweetener content of the products.
- A prohibition on including children's characters, animations, animated drawings, pets or interactive elements that promote or encourage consumption, on the packaging of products high in critical nutrients or sweeteners.
- A restriction on declaring the nutritional and healthy properties of the foods and beverages that include one of the stamps or warning captions that the NOM implements.

Due to the magnitude of the changes to the current food and beverage labeling system, the NOM will enter into force in two main stages. The first on October 1, 2020, which covers the establishment of the front labeling system, through the placement of the stamps and warning captions.

The second stage will begin on April 1, 2021 for the rest of the provisions of the NOM. This second stage is composed of 3 implementation phases related to the methodology of the calculation of the values and profiles referring to the complementary nutritional information. The first phase will be from April 1, 2021 to September 30, 2023; the second will be from October 1, 2023 to September 30, 2025; and the third will commence on October 1, 2025. During these phases, the maximum amounts of critical nutrients will gradually decrease and will imply the placement of captions on more products.

We can provide you with legal advice on the implementation of this NOM. We have also identified certain arguments that we think could be used to challenge the constitutionality of this NOM, in case any company decides to file an amparo bench trial against it.

To obtain additional information contact our experts:

**Adrián Magallanes**, Partner:  
+52 (55) 5258 1077 | amagallanes@vwys.com.mx

**Luis Miguel Jiménez**, Partner:  
+52 (55) 5258 1058 | lmjimenez@vwys.com.mx

**Patricia Kaim**, Partner:  
+52 (55) 5258 1038 | pkaim@vwys.com.mx

**Jessika Rocha**, Senior Associate:  
+52 (55) 5258 1077 | jrocha@vwys.com.mx

**María de Lourdes Salazar y Vera**, Senior Associate:  
+52 (55) 5258 1058 | mlsalazar@vwys.com.mx

VON WOBESER Y SIERRA, S.C.  
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