



December 13, 2018

To: Competition Bureau Canada (via the online Complaints Form)

Also submitted to:

Canadian Food Inspection Agency re: Consumer Packaging and Labelling Act
food-aliment@hc-sc.gc.ca

Submitted by The Canadian Biotechnology Action Network (CBAN)

Contact: Lucy Sharratt, Coordinator coordinator@cbab.ca 902 852 5555 cbab.ca

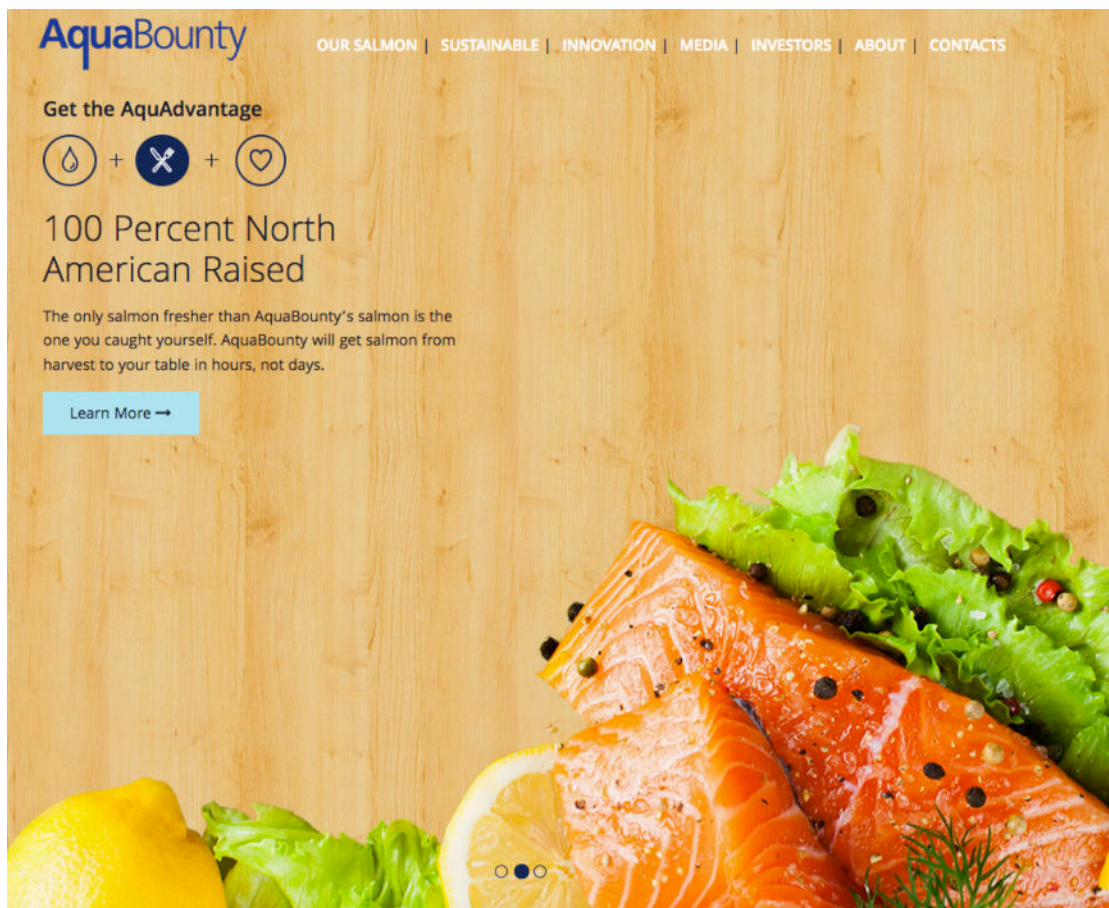
RE: Complaint of Misleading Advertising/Representations on AquaBounty's Website

We are writing to file a complaint of misleading advertisement/representation from the company AquaBounty on their website.

The company AquaBounty currently sells genetically modified (GM, genetically engineered) Atlantic salmon into the Canadian food market.¹ The company has three full-page graphics that cycle through their homepage at www.aquabounty.com and one of these is entirely misleading.

The homepage graphic states, in bold type: "100 Percent North American Raised" and, in smaller type, "The only salmon fresher than AquaBounty's salmon is the one you caught yourself. AquaBounty will get salmon from harvest to your table in hours, not days." The page includes a prominent picture of salmon fillets prepared for human consumption. (Please see below, a screenshot of this homepage taken on December 3, 2018.)

This homepage graphic, in both text and image, is referring to the high-profile AquaBounty product called "AquaAdvantage" salmon. It is a genetically modified Atlantic salmon and the world's first GM fish for food production. The homepage is clearly referring to this GM salmon, including via the text (on all three homepage graphics) that says "Get the AquaAdvantage", along with the picture of salmon fillets prepared for human consumption. The GM salmon is the dominant focus of the entire website.



There are a number of ways in which the text on this graphic is misleading.

Firstly, the webpage (as per the screenshot above) prominently states that the company's product is "100 Percent North American Raised." However, **NONE of its GM salmon is raised in North America.**¹

The company is currently only raising its "AquaAdvantage" salmon product at a small pilot plant in Panama,² and this is the only fish that the company is currently selling as

¹ The United Nations formally recognizes "North America" as comprising three areas: Northern America, Central America, and The Caribbean (as formally defined by the UN Statistics Division). However, in Canada, "North America" is widely understood by the general public to refer to the three countries of Mexico, the US and Canada and not include any countries in Central America including Panama. (Wikipedia re: North America, and re: Panama) This understanding has been encouraged by the Government of Canada via the "North American Free Trade Agreement" (1994 – December 2018) between Canada, the US and Mexico. While this agreement has now been renegotiated and renamed, the government's description of the trade agreement still uses this term. For example, "The revised automotive rules of origin require higher levels of North American content in order to incentivize production and sourcing in North America." (Government of Canada, Summary Background: Canada-United States-Mexico Agreement)

food to Canadian consumers.³ AquaBounty is not yet commercially raising any of its GM salmon in Canada or the US, though it has stated its plans to do so.

- The company is still building its first commercial-scale GM fish production facility in North America, in Rollo Bay, Prince Edward Island. In fact, in October 2018, the company announced a \$2-million grant from the Government of Prince Edward Island to complete construction of the Rollo Bay facility.⁴ Additionally, the company does not yet have federal government permission to grow the GM salmon at this facility, though it currently produces GM salmon eggs at its small Bay Fortune facility in P.E.I..⁵
- The company has a facility in Indiana, USA, that it has renovated to produce the GM salmon, but it is not currently used for this purpose because of a US government import ban on the GM salmon eggs.⁶
- Additionally, AquaBounty says it is seeking to expand production to other countries in South America and to China meaning that, even in the future, while the company has plans to produce some GM salmon in North America, the fish may not be 100% North American raised.⁷

In its filings to the US Securities and Exchange Commission (SEC), AquaBounty states the *potential* to produce its product in North America and projects that production will begin in 2019. For example, in their December 2017 SEC filing, AquaBounty stated,

*“The technology underlying AquAdvantage Salmon offers the potential to reintroduce salmon aquaculture in the United States... We have made our first sales of AquAdvantage Salmon from our farm site in Panama and expect modest revenues during 2017 and 2018, with more significant revenues expected once our facilities in Indiana and on Prince Edward Island are in full production in the second half of 2019.”*⁸

At the end of 2017, AquaBounty stated that it would not be producing GM salmon in the US and/or Canada until at least late 2019: “we anticipate both [facilities] to be operational in 2018 with a first harvest of commercial production in late 2019”.⁹

Recent tweets by AquaBounty further confirm that the company is still not producing the GM salmon in North America. (Please see the examples below, from August 7 and July 10, 2018)



Further, the rest of the text on the homepage is misleading: “The only salmon fresher than AquaBounty’s salmon is the one you caught yourself. AquaBounty will get salmon from harvest to your table in hours, not days”.

Regarding AquaBounty’s statement that “The only salmon fresher than AquaBounty’s salmon is the one you caught yourself”:

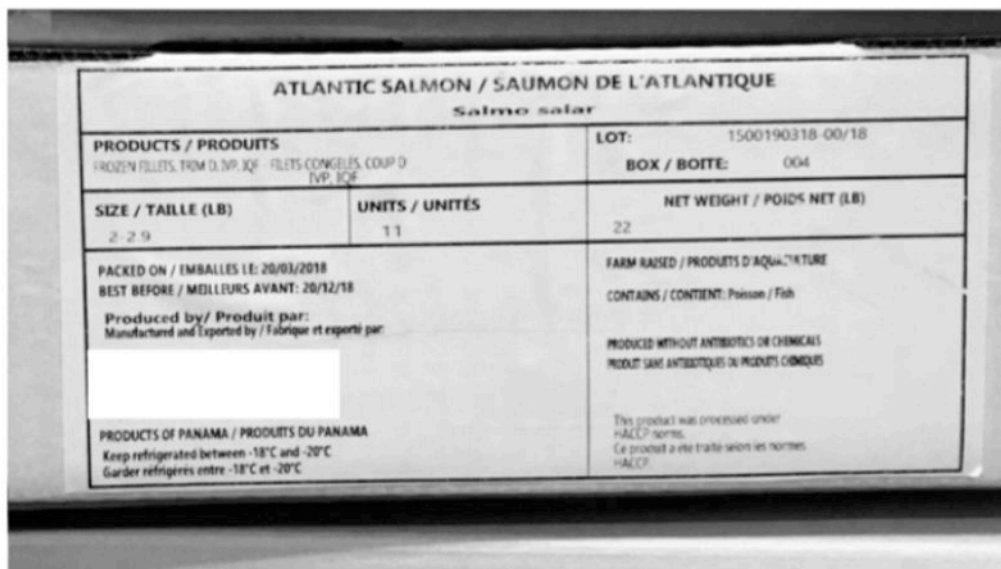
The suggestion that Canadians could fish for Atlantic salmon is misleading. There is no commercial fishery of Atlantic salmon in Canada or the US because most populations of wild Atlantic salmon are classified as endangered or threatened.¹⁰ There is a First Nations harvest that allows for the use of Atlantic salmon for food and ceremonial/cultural purposes and there is a highly regulated recreational fishery where anglers are required to catch and release fish, except in Quebec and Newfoundland and Labrador, where quotas restrict retention numbers and fish size.¹¹ While other species of salmon may be caught

for food, many populations of sockeye salmon, coho salmon, and chinook salmon are also listed as endangered.¹²

Regarding the company's statement that "AquaBounty will get salmon from harvest to your table in hours, not days":

A set of 2018 import documents show that the current import of GM salmon from Panama to Canada takes days or weeks.

- Documents received through *Access to Information* include May 2018 Fish Import Notifications and a string of related emails between AquaBounty and the Canadian Food Inspection Agency that show a container of frozen fillets was expected to arrive in Canada on May 16. On May 23 this container was at the port of Montreal and a May 25 email from AquaBounty stated that, "our container will be staying in the port for the weekend". It was then moved to a new storage location on May 30.¹³
- Additionally, the following picture shows that a box of imported frozen Atlantic salmon fillets was labelled as "Packed" on 20/03/2018 and "Best Before" 20/12/18 (obtained through *Access to Information*).¹⁴



In conclusion, AquaBounty is promoting its GM salmon to the public using misleading information/representation via a prominent graphic on its homepage.

This product is not labelled or otherwise identified for the Canadian public in the marketplace, including because there is no mandatory labelling of genetically modified foods in Canada. The salmon products are not identified as AquaBounty products on shelves or directly advertised to consumers at the point of purchase. Import documents show that fillets of GM salmon were imported for sale to food service and retail sectors in

Canada but where they were sold is unknown. However, **AquaBounty's website is part of company public relations and a general advertising of their product and business to the public, prospective buyers, and investors.**

In 2018, AquaBounty stated the importance of their customers' views and "consumer acceptance": "We also completed our very first sales of AquaAdvantage Salmon, which was extremely well received by our customers who are looking forward to their next shipment",¹⁵ and, "Our business plan contemplates that we will initially establish two production facilities to prove the economic benefit and consumer acceptance for our product."¹⁶ In 2015, then-President Ron Stotish responded in the media to concerns about the GM salmon by saying, "We think time and education and information may allow many of these folks to change their mind."¹⁷ We are therefore concerned that, in the absence of product labelling, the website is a focal point for the company's public "education", which currently includes prominent misleading information/representation.

¹ Kevin Yarr, Canadians already eating genetically-modified salmon, *CBC News*. August 8, 2017. <https://www.cbc.ca/news/canada/prince-edward-island/pei-aquabounty-salmon-sold-1.4238675>

² AquaBounty Technologies Inc., Form 8-K Report to the United States Securities and Exchange Commission, August 7, 2018: "Completed the second sale of AquaAdvantage Salmon from our farm in Panama" <https://aquabounty.gcs-web.com/static-files/9d558c01-d074-42e5-be3c-87f785d925da>

³ AquaBounty Technologies Inc., Form 10-Q, November 2, 2018, page 11: "We generate product revenue primarily through the sales of our AquaAdvantage Salmon." <https://aquabounty.gcs-web.com/static-files/f89f9eb6-af5c-4475-9a3d-a3c73aa0790c>

⁴ AquaBounty. AquaBounty receives construction loan to support development efforts at its Rollo Bay property. Press Release. October 16, 2018. <https://aquabounty.gcs-web.com/news-releases/news-release-details/aquabounty-receives-construction-loan-support-development>

⁵ Laura Chapin, GMO salmon undergoing another federal risk assessment, *CBC News online*. December 5, 2018.

⁶ AquaBounty Technologies Inc., Form 8-K Report to the United States Securities and Exchange Commission, August 7, 2018: "stocked our Indiana farm with traditional Atlantic salmon eggs while waiting for approval from the U.S. Food and Drug Administration ("FDA") to import AquaAdvantage Salmon eggs;" <https://aquabounty.gcs-web.com/static-files/9d558c01-d074-42e5-be3c-87f785d925da> and more recently: *Undercurrent News*, AquaBounty raising 'traditional' salmon in Indiana as GM eggs still blocked, August 8, 2018 <https://www.undercurrentnews.com/2018/08/08/aquabounty-raising-traditional-salmon-in-indiana-as-gm-eggs-still-blocked/>

⁷ AquaBounty Technologies Inc., Form S-1/A Securities Registration Statement, December 7, 2017: "Additionally, management is pursuing regulatory approval for AquaAdvantage Salmon in Brazil, Argentina, China and Chile." <https://seekingalpha.com/filings/pdf/12419155.pdf>

⁸ AquaBounty Technologies Inc., Form S-1/A Securities Registration Statement, December 7, 2017. <https://seekingalpha.com/filings/pdf/12419155.pdf>

⁹ AquaBounty Technologies Inc., Form S-1/A Securities Registration Statement, Page 54. December 7, 2017. <https://seekingalpha.com/filings/pdf/12419155.pdf>

¹⁰ Atlantic Salmon Federation, Endangered Populations. <http://asf.ca/endangered-populations.html>

¹¹ Fisheries and Oceans Canada, Atlantic Salmon Newfoundland and Labrador. 2018. <http://www.dfo-mpo.gc.ca/decisions/fm-2018-gp/atl-15-eng.htm>

¹² Leyland Cecco, 'We're sounding the alarm': half of Canada's chinook salmon endangered, *The Guardian*. December 5, 2018. <https://www.theguardian.com/environment/2018/dec/05/canada-chinook-salmon-endangered>

¹³ Email correspondence between Annie Rheault, Canadian Food Inspection Agency and (name redacted) AquaBounty, via Access to Information File A201800112. Available upon request.

¹⁴ Access to Information File A201800112. Available upon request.

¹⁵ AquaBounty Technologies Inc., Press Release: AquaBounty Technologies, Inc. Results for the year ended December 31, 2017. March 08, 2018 <https://globenewswire.com/news-release/2018/03/08/1418816/0/en/AquaBounty-Technologies-Inc-Results-for-the-year-ended-December-31-2017.html>

¹⁶ AquaBounty Technologies Inc., Form S-1/A Securities Registration Statement, December 7, 2017. <https://seekingalpha.com/filings/pdf/12419155.pdf>

¹⁷ *The Canadian Press*, U.S. approves genetically modified salmon for human consumption, November 19, 2015.
<https://www.ctvnews.ca/health/u-s-approves-genetically-modified-salmon-for-human-consumption-1.2665753>