



'Dolphin Safe' Labels On Canned Tuna Are A Fraud

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After multiple condemnations from the World Trade Organization, it's time for consumers to realize that U.S. "dolphin safe" labels are a fraud cooked up by special interests. A WTO panel [announced](#) for the third time in three years that U.S. laws defining dolphin-safe are protectionist. This should be a wake-up call for eco-conscious consumers who want to make sure their grocery purchases aren't harming the ocean. By providing cover for a handful of major brands the law actually makes it harder to purchase responsibly caught tuna.

Whether companies can market their tuna as dolphin-safe has a huge impact on consumer and retailer behavior. Currently [around 98%](#) of canned tuna sold in groceries stores carries the label. By most measures, the dolphin-safe label should be deemed a success—consumers responded to information and the market responded to consumers.

The problem is that the law defining dolphin-safe is actually designed to [mislead](#) consumers about the fishing methods used to catch tuna.

Most Americans think that the existence of a dolphin-safe label means that no dolphins were harmed when the tuna were caught. In truth, the label only means that one particular fishing method was not used in one particular part of the ocean. It is no coincidence that the place and practice most scrutinized by the law are where and how the Mexican tuna industry operates.

Known as "setting on dolphins," the practice of circling dolphin pods with nets as a way to catch tuna was widely criticized for harming dolphin populations up through the 1980s. But that was before the creation of the [International Dolphin Conservation Program](#), which places observers on tuna vessels to verify that no dolphins are harmed during the catch. Since then, dolphin mortality from this practice has virtually [disappeared](#).

In order to qualify as dolphin-safe, tuna may not be caught using this method regardless of whether dolphins are actually harmed. Even if this method isn't used, tuna caught in the eastern tropical Pacific may only be called dolphin-safe if an independent observer verifies that no dolphins were harmed. Tuna caught elsewhere in the world can be called dolphin-safe based merely on a declaration from the ship's operator.

One important aspect of the dolphin-safe labeling rules is that companies that do not meet the specific requirements are prohibited not only from using the label but from stating anything about how their practices impact dolphins. That means that Mexican tuna brands have no way to explain their fishing methods to consumers.

And there's reason why eco-conscious consumers in particular might want that information. Unlike Mexican fisheries, the major U.S. producers catch tuna using fish aggregation devices (FADs), a practice that [activists have condemned](#) as "floating death traps" because of its high incidence of bycatch. Dolphins aren't the only creatures threatened by irresponsible tuna fishing.

It is no accident then that the major U.S. tuna producers who support and benefit from the dolphin-safe label are counted by activists as among the worst offenders on sustainable fishing practices. Greenpeace released a [Canned Tuna Shopping Guide](#) earlier this year. They take into account multiple factors like the health of tuna stocks, traceability, and even "ethical labor practices." The guide ranks major U.S. brands at the bottom for failing on almost all measures.

And what does Greenpeace have to say about the dolphin safe label? "Dolphin safe does not mean ocean safe. It means that one fishing method that targets tuna that swim with dolphins is not used to catch the tuna. What about the rays and turtles?!"

It's very likely that, even without the current dolphin-safe rules, some consumers will avoid Mexican brands out of concern that "setting on dolphins" is totally unacceptable. It's also true that other consumers will be glad to have more "FAD-free" options. It's [perfectly reasonable](#) for eco-conscious consumers when choosing between the two to pick tuna caught by setting on dolphins (with observers to ensure no dolphins were harmed) over tuna caught using FADs. The dolphin-safe rules obscure this distinction and prevent consumers from playing a more active role in ocean conservation.

The best way to empower consumers to make a difference in tuna practices is to keep government out of the labeling business. Open competition will foster more sharing of more accurate and relevant information. Groups like Greenpeace serve a vital function in the market by providing like-minded consumers with well-packaged information. The existence of federal rules, however, gives power to lobbyists that they would not have in a free market.

But even if you think some regulation is needed, the current regime is possibly the worst way to do it. The WTO first concluded over three years ago that U.S. regulations violated trade rules because they are more onerous for Mexican fisheries in a way that [doesn't contribute to protecting dolphins](#). Minor changes made to the law last year were not enough to bring to the United States into compliance. If the goal of the program really were to protect dolphins, we would not be having this problem.

Consumers want information about production practices because it gives them more power to influence how companies operate. It fosters an environment where companies compete for business based on those practices. Protectionist dolphin-safe labeling laws do the opposite—they empower companies to influence consumers through misinformation while reducing competition.

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