



Submission from Cancer Council Australia

Review of Food Labelling Law and Policy

Cancer Council Australia is Australia's peak national non-government cancer control organisation. Its members are the eight state and territory cancer organisations working together to undertake and fund cancer research, prevent and control cancer and provide information and support for people affected by cancer.

Cancer Council Australia's goal is to lead the development and promotion of national cancer control policy in Australia, in order to prevent cancer and reduce the illness, disability and death caused by cancer.

Cancer Council welcomes the decision by the Council of Australian Governments (COAG) and the Australia and New Zealand Food Regulation Ministerial Council (Ministerial Council) to undertake a comprehensive review of food labelling law and policy which will consider options to reduce the regulatory burden in food labelling *without* compromising public health and safety.

Our organisation is interested in food labelling as a vehicle to assist consumers to make healthier food choices, and as a means of encouraging the food industry to innovate and develop healthier food products. Cancer Council is concerned about the potential for false, misleading, deceptive, or simply misconstrued food labelling, which has the potential to contribute to unhealthy food choices, and the development of obesity and consequent chronic disease, including cancer. The high rates of obesity in Australia and the link between obesity and cancer make this issue of extreme importance to Cancer Council Australia.

Q1. To what extent should the food regulatory system be used to meet broader public health objectives?

Cancer Council believes that it is vital that the food regulatory system be better used to meet broader public health objectives. The current food regulatory system is not being optimally utilised to achieve public health objectives. Rather than focus ensuing discussions about food labelling on debating how labelling information (or lack thereof) contributes to ill health and chronic disease, Cancer Council encourages this review to focus on creating labelling systems that support healthy lifestyle behaviours and systems that do not undermine healthy choices.

Cancer Council is strongly of the view that public health objectives of the food regulatory systems should outweigh any marketing objectives of the food industry. We acknowledge that improving public health requires a comprehensive, multi-level strategic approach, and that food regulation is but one of the necessary measures to promote healthier food choices to consumers.

As well as being a vehicle to assist consumers to make healthier food choices, food labelling can have the added advantage of encouraging the food industry to innovate and develop healthier food products.

The current regulatory system, without adequate monitoring and surveillance, allows for an environment that favours many misleading food labelling examples in Australia, which can contribute to poor food choices (eg claims for high vitamin content on foods that are energy dense).

Cancer Council believes that a clearer definition of 'public health' is required in the Food Standards Code. Cancer Council is concerned that, on occasion, FSANZ and more broadly, the Government, have taken an overly simplistic and narrow view of aspects relating to food labelling policy, with resultant implications on public health. While food safety issues are an important public health component, other issues such as the prevention of weight gain are also critical. We recommend that one definite outcome of this review should be the repositioning of parameters to define public health, and emphasising the importance of these parameters in all aspects of food labelling policy and regulation.

Cancer Council supports the definition of public health used by the Australian Institute of Health and Welfare, developed from the National Public Health Partnership (NPHP):

“Public health is the organised response by society to protect and promote health, and to prevent illness, injury and disability. The starting point for identifying public health issues, problems and priorities, and for designing and implementing interventions, is the population as a whole, or population subgroups” (NPHP, 1998).

The Australian Institute of Health and Welfare have further expanded this definition:

“Public health is distinguished from other roles of the health system by its focus on the health and wellbeing of populations rather than individuals. Public health programs are usually aimed at addressing the factors that determine health and the causes of illness, rather than their consequences, with the aim of protecting or promoting health, or preventing illness”. (Available at <http://www.aihw.gov.au/publications/hwe/pheia06-07/pheia06-07.pdf>)¹

Q2. What is adequate information and to what extent does such information need to be physically present on the label or be provided through other means (eg education or website)?

Cancer Council believes there should be mandatory labelling information on all packaged foods, including ingredients lists that adequately provide information for people suffering from allergies; identifying batch numbers; use by dates; nutrition information panels; country of origin information; and in addition traffic light labels to assist consumers to make healthier food choices. Cancer Council acknowledges that Australia is fortunate to have a strong regulatory framework for food labelling, but we are of the view that this is not a reason for no further initiatives to promote healthier eating in the population.

Cancer Council does not believe that it is sufficient to provide the above information requirements through other means, such as websites, as this will not be an equitable strategy for all parts of the community – including those who are disadvantaged and vulnerable. The vast majority of consumers need to access this sort of information at the point of purchase, as access to online information is not accessible to the vast majority of shoppers during the shopping expedition.

Cancer Council would also like the Review Panel to be aware that not all food company websites provide nutrition information panels and therefore the presence and legibility of labelling information at the point of sale are very important.

Q3. How can accurate and consistent labelling be ensured?

In order to ensure accurate and consistent labelling, Cancer Council supports the following principles being applied:

- **Food labelling should support consumers in selecting healthier food products.**
- **Food labelling regulation should encourage healthier food product formulation.** Regulation for food labelling should aim to spur healthier product development by the food industry.
- **The food labelling system should provide an interpretation of nutrition information for consumers.** An interpretive scheme, such as Traffic Light symbols and coloured schema, should be used to provide at-a-glance interpretation of nutrient information.
- **Food labelling should be simple and quick for consumers to interpret.** Food labelling must provide at-a-glance information and interpretation of nutrient information for consumers. It is not sufficient to rely on consumers seeking information from sources other than the label.
- **Labelling should be based on 100 g/mL of foods.** Factual information about the levels of key nutrients should be based on 100g or 100mL of the food or beverage product to avoid any manipulation of serving size information by food manufacturers.
- **Food labelling should comprise one consistent system.** To avoid consumer confusion one consistent labelling system, including for front of pack labelling, should be introduced rather than a range of systems permitted.
- **Food labelling requirements should be based on independent consumer research and sound endpoints.** This research must be transparent and stand up to peer review. (Listed in the Appendix are a set of research principles for consumer research on front of pack food labelling systems).
- **Food labels should be available across all packaged retail grocery food products.**
- **Food regulation should be accompanied by public education.** An extensive public education campaign must accompany the implementation of food labelling improvements to inform consumers how to interpret the labelling system in the context of other government healthy eating guidelines.
- **Food regulation for food labelling should be statutory in nature and fully enforced.** Only mandatory, legally enforced food labelling regulations will ensure that the system is equitably applied across all food products, giving maximum benefit for consumers.
- **Food labelling should be monitored and evaluated.** Food labelling needs to be monitored and evaluated to ensure that it meets its stated objectives.

Cancer Council believes that the existing Food Standards Code provides some elements for a strong framework for regulation. However we would like to see more consistent monitoring of compliance with the standards and enforcement of the standards.

Cancer Council recommends three key areas of action to arise from this Review:

1. There must be better regulation of nutrition content claims and health claims. This review needs to address the lack of clarity and direction in resolving the proposed standard for nutrition and health related claims in Proposal P293 on Nutrition and Health Related Claims. This is discussed further at Q10.
2. Cancer Council urges the government to introduce a front of pack of labelling system – ie Traffic Light labelling subject to further consumer research testing. This is discussed further at Q26.

3. An additional step to ensure accurate and consistent food labelling would be the introduction of standard serve sizes that have been developed independently of the food industry. This would be an important step to address the inconsistency among food manufacturers who declare a myriad of serve sizes on the nutrition information panels of their products, which do not assist consumer education efforts in being able to interpret food labels.

Q4. What principles should guide decisions about government intervention on food labelling?

As stated in the previous question (Q3), Cancer Council supports the following principles being applied:

- **Food labelling should support consumers in selecting healthier food products.**
- **Food labelling regulation should encourage healthier food product formulation.** Regulation for food labelling should aim to spur healthier product development by the food industry.
- **The food labelling system should provide an interpretation of nutrition information for consumers.** An interpretive scheme, such as Traffic Light symbols and coloured schema, should be used to provide at-a-glance interpretation of nutrient information.
- **Food labelling should be simple and quick for consumers to interpret.** Food labelling must provide at-a-glance information and interpretation of nutrient information for consumers. It is not sufficient to rely on consumers seeking information from sources other than the label.
- **Labelling should be based on 100 g/mL of foods.** Factual information about the levels of key nutrients should be based on 100g or 100mL of the food or beverage product to avoid any manipulation of serving size information by food manufacturers.
- **Food labelling should comprise one consistent system.** To avoid consumer confusion one consistent labelling system, including for front of pack labelling, should be introduced rather than a range of systems permitted.
- **Food labelling requirements should be based on independent consumer research.** This research must be transparent and stand up to peer review.
- **Food labels should be available across all packaged retail grocery food products.**
- **Food regulation should be accompanied by public education.** An extensive public education campaign must accompany the implementation of food labelling to inform consumers how to interpret the labelling system in the context of other government healthy eating guidelines.
- **Food regulation for food labelling should be statutory in nature and fully enforced.** Only mandatory, legally enforced food labelling regulations will ensure that the system is equitably applied across all food products, giving maximum benefit for consumers.
- **Food labelling should be monitored and evaluated.** Food labelling needs to be monitored and evaluated to ensure that it meets its stated objectives.

In addition, Cancer Council urges the Review Panel to be cognisant of the significant problem of obesity and chronic disease in the community, as well as the rising costs to the health system,² and consider this not only a principle to compel government intervention on food labelling but an urgent mandate. If the definition of public health used by the Australian Institute of Health and Welfare is adopted in the Food Standards Code - *“Public health programs are usually aimed at addressing the factors that determine health and the causes of illness, rather than their consequences, with the aim of protecting or promoting health, or preventing illness”* – then this lays a sound foundation for

guiding government intervention on food labelling.

Q5. What criteria should determine the appropriate tools for intervention?

Cancer Council supports that there should be government regulation of food labelling and not food industry self regulatory codes of practice.

The issue of food labelling does not meet the criteria specified in the Commonwealth Interdepartmental Committee on Quasi-regulation's checklist³ for when self regulation should be considered, namely:

- There is no strong public interest concern, in particular, no major health and safety concern.
- The problem is a low risk event, of low impact/significance.
- The problem can be fixed by the market itself, that is, there is an incentive for individuals and groups to develop and comply with self-regulatory arrangements.
- There must be a viable industry association with adequate coverage of the industry concerned and a cohesive industry with like-minded participants committed to achieve the goals.
- Cost advantages from tailor made solutions and less formal mechanisms, such as access to quick complaints handling and redress mechanisms.

Clearly the issue of food labelling does not meet these criteria for self regulation. There is very strong community concern and a legitimate health concern about the impact of food labelling on nutrition related behaviours which can impact on obesity and chronic disease risk. The lack of a cohesive food industry peak body that represents the interests of all food manufacturers is another stumbling block for effective self-regulation. The Australian Food and Grocery Council (AFGC) has 150 member food manufacturers, but there is variability in the number of companies that sign up to and comply with AFGC policies. The industry Code of Practice on Nutrition Claims (COPONC) is not currently well adhered to by food manufacturers. A study by Williams et al reviewed 6662 food product labels to determine their compliance with COPONC and the Food Standards Code.⁴ Thirteen percent of claims did not comply with one or both of these Codes, and of these 80% did not comply with COPONC.⁵ This study shows that the food industry is more likely to comply if a Code is mandatory.⁵

As well the complicated and sometimes lack of complaints procedures with food industry codes (particularly demonstrated through food marketing codes of practice) are not consistent with quick complaints handling.

Therefore, Cancer Council recommends the following criteria should be considered when determining the tools for intervention:

- A national agency (Cancer Council suggests FSANZ) should be the single interpretative agency on food labelling standards (refer to Q30) and therefore be responsible for the development and implementation of all tools.
- Input should be sought from all relevant stakeholders (e.g. health, the food industry, consumers).
- Tools should be piloted for usability and to ensure they are accurate.
- A clear, concise complaints and complaints resolution process should be in place prior to implementation.

Q6. Is this a satisfactory spectrum for labelling requirements?

The Issues Consultation paper mostly articulates a satisfactory spectrum for labelling requirements:

All packaged foods (with a few exceptions) require labelling, though requirements are minimal for some simple packaged foods. The exceptions include: packages that are very small; food made and packaged on the premises where it is sold; food packaged in the presence of the customer or packaged and delivered at the customer's request. Some unpackaged food – certain fruits, vegetables, seafood and pork products – require country of origin labelling; food which has been genetically modified or irradiated must be labelled as such or have a label display; and certain mandatory declarations, advisory and warning statements that apply to unpackaged foods must be provided on, or in connection with, the display of the food.

However Cancer Council does not think there should be wording exemptions for small packages, as additional information in the form of a fold out label or shelf information could be provided. An example of a small packaged food may be a confectionery bar, where it is very important that the full information on the nutritional content of the product should be provided to consumers.

In addition, Cancer Council believes there should be further consideration given to the feasibility of Quick Service Restaurants meeting labelling requirements at the point of sale (see Q27).

Q7. In what ways could these misunderstandings and disagreements be overcome?

No specific comment from Cancer Council other than to say that Australia should maintain our high standards for food labelling.

Q8. In what ways can food labelling be used to support health promotion initiatives?

Health promotion initiatives can be supported by food labelling regulation if the following principles are adapted:

- Food labelling should support consumers in selecting healthier food products.
- Food labelling regulation should encourage healthier food product formulation.
- The food labelling system should provide an interpretation of nutrition information for consumers.
- Food labelling should be simple and quick for consumers to interpret.
- Labelling should be based on 100 g/mL of foods.
- Food labelling should comprise one consistent system.
- Food labelling requirements should be based on independent consumer research.
- Food labels should be available across all packaged retail grocery food products
- Food regulation should be accompanied by public education.
- Food regulation for food labelling should be statutory in nature and fully enforced.
- Food labelling should be monitored and evaluated.

Cancer Council is strongly of the view that the percentage daily intake labelling system has no benefits in assisting the majority of consumers, and in particular consumers from low socio-economic status groups, to make healthy food choices. This finding is backed up by studies published in peer reviewed journals.⁶ We would urge the government to ensure this type of bamboozling labelling system is not supported or permitted to continue.

In addition, health promotion efforts could be better supported by there being clarification and finalisation of an appropriate standard to regulate nutrition content and health claims on food labels. The long drawn out process for Proposal P293 on Nutrition and Health Related Claims needs to be resolved so that misleading and inaccurate examples of nutrition and health claims can be addressed.

Cancer Council would also recommend the introduction of standard serving sizes as an important initiative for health promotion efforts. This would be an important step to address the inconsistency among food manufacturers who declare a myriad of serve sizes on the nutrition information panels of their products, which do not assist consumer education efforts in being able to interpret food labels.

Q9. In what ways can disclosure of ingredients be improved?

Cancer Council recommends that additives that are associated with food allergies and intolerances be listed by their full names as well as the additive number. Cancer Council also believes that oils that are high in saturated fat, such as palm and coconut oil should be listed by their name in the ingredients list and not as generic 'vegetable oil', and that trans fats should be listed on all packaged foods. Cancer Council also recommends improved clarity on how percentage of fruit and vegetable ingredients are listed.

Q10. To what extent should health claims that can be objectively supported by evidence be permitted?

Cancer Council Australia has participated in numerous reviews and consultations around the proposed standard for nutrition and health claims (P293). Cancer Council is concerned that there is a lack of evidence that health claims lead to behaviour change and improved public health through healthier food choices, and that health claims are essentially a marketing tool. We are also concerned that any system that permits health claims ensures that there is no risk that such claims can confuse or mislead the public. Having stated our position, Cancer Council does however acknowledge and support the comprehensive substantiation framework developed by FSANZ for substantiating health claims on foods, as described in the Final Assessment Proposal (April 2008).

Cancer Council supports the provisions for health claims proposed by FSANZ in P293 whereby:

- All high level health claims must be based on a food-disease relationship that has been pre-approved by FSANZ under their substantiation framework;
- Use of a pre-approved list of food-disease relationships (which do not include cancer) to form the basis of high level health claims, which are permissible on food labels;
- Applications to FSANZ must be made for approval to use any other food disease relationships as the basis for a high level health claim; and
- All foods carrying high level health claims based on any of the pre-approved food-disease relationships *must* meet the generic nutrient profiling scoring criteria.

The standard for all types of claims, whether they be a health claim or a nutrition content claim, needs to ensure that consumers are not misled in any way. We believe that nutrition and health claims should only be used on foods that are consistent with healthy eating guidelines. Making nutrition and health claims on foods should be an earned privilege for the food industry and be

based on the overall health merits of the food. In addition, published research has found that consumers do not readily distinguish different types of claims.⁷

Therefore Cancer Council believes that any new standard relating to nutrition claims should include appropriate disqualifying criteria for nutrition content claims as well as general level health claims and high level health claims, so that unhealthy foods are not permitted to make potentially misleading content claims.

The lack of disqualifying criteria for foods making nutrition content claims, as was proposed in the last version of the proposed standard P293, effectively allows for unhealthy foods to make nutrient content claims. For example a less healthy food could highlight a single positive nutrition characteristic without disclosing the full picture of the rest of its nutrient profile, except in the nutrition information panel. Advertising campaigns for certain breakfast cereals have highlighted the presence of calcium and vitamin content of the products without disclosing their high sugar and low fibre content. There is a real need for disqualifying criteria to prevent such misleading and deceptive marketing practices.

And finally, the long drawn out process in resolving Proposal P293 has created much uncertainty in the marketplace and confusion for consumers.

Q11. What are the practical implications and consequences of aligning the regulations relating to health claims on foods and complementary medicine products?

The health claims allowable on food and complementary medicines are very different. At present the only health claim permitted to appear on food labels relates to folic acid and pregnancy, although an additional five health claims have been approved by FSANZ but are awaiting approval by the Australia New Zealand Food Regulation Ministerial Committee. In relation to complementary medicines, the only claims permissible are those relating to health maintenance, health enhancement, or non-serious, self-limiting conditions.⁸ Both food and complementary medicines are often sold side-by-side in supermarkets.

In addition, there are a number of products that are not classified as either foods or complementary medicines, such as weight loss products. Such products make claims that are prohibited under both the Food Standards Code and the Therapeutic Goods Regulations, but avoid regulation by slipping through the cracks between the state and territory food agencies and the Therapeutic Goods Administration.

As both complementary medicines and food are sold together in large supermarket chains and health food shops, many consumers may not understand the differences in regulation between food and complementary medicines – they may simply focus on the health benefits of the product. Therefore from a consumer standpoint, it would make sense to adopt a system similar to that in the United States of America where regulations for health claims are aligned for foods and complementary medicines.

However, complementary medicines are not foods and thus are not used in the same methods or quantities as food. Complementary medicines make (or at least imply) health benefits through their use, and should therefore be required to substantiate the claim through evidence. Therefore from a scientific point of view, these products should have tighter regulation than food products and therefore the alignment of requirements with food health claims would be problematic; either

requirements would need to be relaxed for complementary medicines (potentially allowing unproven products onto the market) or the regulations for health claims would need to be tightened.

Another point of consideration is the difference between Australia and New Zealand in relation to complementary medicines. Currently, the differences between the two countries create loopholes enabling some therapeutic goods that make otherwise prohibited claims to enter the Australian marketplace. Such issues should be resolved in the labelling review.

Q12. Should specific health warnings (e.g., high level of sodium or saturated fat per serve) and related health consequences be required?

Cancer Council does not support specific health warnings on food labels (although we do for alcoholic beverages – see Q20). However the Cancer Council believes (as discussed in Q10) there is a need for food products that display nutrition content and health claims to meet criteria for healthiness.

Cancer Council does not believe that health warnings on food are required. As there are many different foods to choose from and even more combinations of eating patterns, the practicality of displaying health warnings on single foods which may be eaten by some people on a daily, weekly, monthly or even less frequent basis, mean that health warnings may have unintended harmful consequences. For example bread is a high source of sodium in the diet, and yet its overall nutritional profile is still highly desirable. Another example would be people who consume energy dense, nutrient poor foods like chocolate and confectionery on a daily basis need different advice to a person who only consumes these foods on a less regular basis (eg monthly).

Cancer Council will shortly be conducting further consumer research testing on people's understanding of consumption frequency terms (like 'eat in moderation', 'eat occasionally' etc) and how this can be incorporated into a front of pack labelling system that provides both an interpretation of the nutrient quality of the food and appropriate advice on the quantity of the food that should be consumed. Being able to balance messages about the nutritional quality and quantity of a food is a fine balancing act. The current food regulatory system does not address this well. But health warnings are not the answer and Cancer Council believes it would be confusing for consumers to see warning statements to counter other nutrition content or health claims. We do not believe that contradictory information is balanced information.

Instead of supporting warning labels/statements on food, Cancer Council supports the prohibition of nutrition content claims on less healthy foods that are energy dense and nutrient poor (e.g. high sugar/low fibre breakfast cereals making claims about vitamins and minerals). Effective health claims regulation would be more effective as it would prevent claims on unhealthy food so you wouldn't need a warning statement; and Traffic Light front of pack food labelling would be a quasi warning statement but would give more information about fat/sugar/salt content.

The only food category that Cancer Council would support a trial of a health warning at the current time would be sugar sweetened soft drinks, which provide no beneficial nutrition.

Q13. To what extent should the labelling requirements of the Food Standards Code address additional consumer-related concerns, with no immediate public health and safety impact?

No comment as this is not an issue of relevance to the Cancer Council.

Q14. What criteria should be used to determine the inclusion of specific types of information?

No comment as this is not an issue of relevance to the Cancer Council.

Q15. What criteria should determine which, if any, foods are required to have country of origin labelling?

No comment as this is not an issue of relevance to the Cancer Council.

Q16. How can confusion over this terminology in relation to food be resolved?

Although country of origin labelling is not an area of relevance to the Cancer Council, this issue could be addressed by conducting some high quality consumer research on how real consumers interpret the terms 'made' and 'produced' in Australia.

Q17. Is there a need to establish agreed definitions of terms such as 'natural', 'lite', 'organic', 'free range', 'virgin' (as regards olive oil), 'kosher' or 'halal'? If so, should these definitions be included or referenced in the Food Standards Code?

Yes there is a need to establish agreed definitions of these terms for the sake of both consumers and the food industry. In particular, consumers often perceive foods labelled with the terms 'natural', 'lite', 'organic', as having additional nutrition and health benefits. The Food Standards Code is incomplete without defining descriptors so often used on food labels. 'Lite/Light' is used on food labels to portray a variety of characteristics, including flavour, colour and nutritional benefits, and consumers would benefit from there being greater clarity about appropriate use of these terms.

Another labelling definition required in the Food Standards Code is 'Real' (eg real fruit), which should only be used when the whole component of the food is used that has equivalent nutritional characteristics (i.e. equivalent levels of fibre, vitamins etc). 'Real' is not an appropriate descriptor when only a percentage of the product contains the specific food component.

Q18. What criteria should be used to determine the legitimacy of such information claims for the food label?

No comment as this is not an issue of relevance to the Cancer Council.

Q19 In what ways can information disclosure about the use of these technological developments in food production be improved given the available state of scientific knowledge, manufacturing processes involved and detection levels?

Cancer Council supports consumers' right to be informed about the technological methods associated with food ingredients, and support this being in the ingredients list.

Q20. Should alcohol products be regulated as a food? If so, should alcohol products have the same labelling requirements as other foods (i.e., nutrition panels and list of ingredients)? If not, how should alcohol products be regulated?

Cancer Council believes that alcohol products should meet the same labelling requirements as other foods, particularly for inclusion of nutrition information panels for relevant nutrients (energy content expressed in kilojoules per standard drink and 100mL) and listing of ingredients. Cancer Council supports the need for health warnings to be included on alcohol labels (although health warnings would not be an appropriate step on labels for food as discussed in Q12).

Cancer Council is concerned about the limitations of the current labelling approach to alcohol. At the present time, alcohol labeling requirements are less stringent than those applied to many foods. The labeling requirements fail to recognise or acknowledge that alcohol is a high-risk product. A more effective approach to alcohol labelling could be based on the approach taken to tobacco under the consumer protection provisions of the *Trade Practices Act 1975* (Cth).

Cancer Council recommends:

- Consistent with the recommendations of the National Preventative Health Taskforce,⁹ health information and warning labels should be mandatory under the Food Standards Code.
- Health information and warning labels need to follow strict guidelines about wording, format, legibility, colours used and the size of the label and position on the package (bottle, can, cask etc).
- The introduction of health information and warning labels should be part of a wider alcohol control strategy that includes advertising and sponsorship bans and targeted pricing and taxation measures, in line with the recommendations of the National Preventative Health Taskforce.⁹
- In relation to health information labels they should include:
 - a) A full list of ingredients and nutritional information, in accordance with Standard 1.2.8 of the Food Standards Code, including the energy content per container and per 100mL. This is particularly important in relation to overweight, obesity and allergy concerns.
 - b) Consistent and uniform information about the estimated number of standard drinks in relation to the size and legibility, using a clear, consistent logo across all products.
- In relation to warning labels:
 - a) Warning labels should be compulsory on all alcohol products so consumers can be informed that the product they are purchasing and/or consuming can have a serious impact on their health and wellbeing.
 - b) Warning labels should include health messages based on the 2009 NHMRC Alcohol Guidelines¹⁰ for low risk drinking including:

- medical side effects of alcohol;
 - risks during pregnancy;
 - increased risk of physical violence;
 - risks to safety when operating machinery, driving, swimming etc.; and
 - social, health and injury problems.
- c) Cancer Council proposes, in order to maximise impact, awareness and comprehension of the warning labels; they need to be:
- placed on the main label (as opposed to the neck label);
 - boxed;
 - of letters no less than 3mm high;
 - textual and graphic;
 - attention-getting;
 - full colour or black writing on white background to ensure written messages stand out
 - occupying a considerable portion of the package surface, with the minimum size of labels stipulated;
 - rotated with different messages; and
 - easy to comprehend - they need to be tested with consumers to ensure they are understood especially by people with low literacy or who speak languages other than English.
- d) Warning labels should address social as well as health and safety issues, such as risk to third parties, as well as to the drinker themselves.
- e) Alcohol warning labels should be reinforced by warning posters and signs in licensed premises.

Cancer Council's position is very strongly that there should be no nutrition or health claims permitted on alcohol. Cancer Council does not support the use of carbohydrate claims on alcoholic beverages, which are not necessarily lower in energy or alcohol content, as these types of claims may be misleading to consumers.

Cancer Council recommends the mandatory inclusion of nutrition information panels on all alcoholic beverages, not just those alcoholic beverages which make a claim. Our rationale for this is because alcohol contains a significant amount of energy (29kJ/g) and is a significant source of energy for regular drinkers. Alcohol provided approximately 9% of energy in adult males in the 1995 National Nutrition Survey who were alcohol consumers.¹¹ Most drinkers are not aware that alcohol is a significant source of energy, so the inclusion of information on the high energy content of alcoholic beverages should be readily available.

Q21. Should minimum font sizes be specified for all wording?

This is an area in which FSANZ should undertake some consumer research testing. Cancer Council believes that consideration should be given to font sizes being scaled according to size of the food package, as well as specifications for minimum font sizes.

The vast majority of consumers need to access this sort of information at the point of purchase, as access to online information is not accessible to the vast majority of shoppers during the shopping expedition.

Cancer Council would also like the Review Panel to be aware that not all food company websites provide nutrition information panels and therefore the presence and legibility of labelling information at the point of sale are very important.

Q22. Are there ways of objectively testing legibility and readability? To what extent should objective testing be required?

Cancer Council believes that this is an issue in which FSANZ or an independent research group should undertake consumer research testing.

Q23. How best can the information on food labels be arranged to balance the presentation of a range of information while minimising information overload?

Food labels contain a large amount of information that has the potential to overload the consumer. In research conducted by Cancer Council, in collaboration with public health and consumer organisations, consumers indicated strong support for nutrition information to be included on the front of food packages, particularly saturated fat, sugar, total fat and sodium, and for a single, consistent front of pack food labelling system across all food packages.⁶

Considering this, Cancer Council strongly supports the adoption of an interpretive front of pack labelling scheme, such as Traffic Light symbols and coloured schema, to allow consumers to gauge at a glance whether a food is nutritious or not and reduce information overload on consumers. This is discussed further in Q26.

Q24. In what ways can consumers be best informed to maximise their understanding of the terms and figures used on food labels?

Cancer Council strongly supports the adoption of an interpretive front of pack labelling scheme, such as Traffic Light symbols and coloured schema, as discussed further in Q26. In addition, an extensive public education should accompany this to inform consumers how to interpret the labelling system in the context of other government healthy eating guidelines.

By implementing a scheme such as Traffic Lights, consumers would not require an extensive knowledge of facts and figures used on labels in order to make informed decisions in relation to food.

Q25. What is an appropriate role for government in relation to use of pictorial icons on food labels?

Food labels contain a myriad of pictorial icons, some of which have strong potential to mislead consumers about the overall healthiness of the food product. The addition of colour coded interpretative symbols, such as Traffic Lights as discussed further in Q26, on the front of food labelling packaging would be a useful tool to ensure consumers are not misled by other pictorial icons.

In this respect, it is the government's responsibility to implement Traffic Light labelling and to enforce it.

In addition, food companies purchase the licences or seek endorsements to use popular animated or movie characters, sport personalities and celebrities in their marketing and packaging to target

children. This is an issue as parents have reported that the inclusion of characters on food packages had a strong influence on the foods they eat.¹² Further, recommendations made by Consumers International and the International Obesity Taskforce state that the use of such imagery on food packages to target children should be prohibited.¹³

Q26. What objectives should inform decisions relevant to the format of front-of-pack labelling?

Cancer Council is strongly supportive of the introduction of front of pack food labelling and recommends that the Review Panel support the following objectives for a front of pack labelling system (which have been adapted from the consensus principles developed through the Australian Chronic Disease Prevention Alliance, of which Cancer Council is a member organisation):

- **Support consumers in selecting healthier food products.** Front of pack food labelling should educate consumers and assist them to identify healthier food products.
- **Encourage healthier food product formulation.** Front of pack food labelling should aim to spur healthier product development by the food industry.
- **Provide an interpretation of nutrition information for consumers.** An interpretive scheme, such as Traffic Light symbols and coloured schema, should be used to provide at-a-glance interpretation of nutrient information.
- **Complement rather than replace Nutrition Information Panels (NIPs).** Front of pack labelling must complement, not replace, existing nutrition information currently on the back or sides of food packages.
- **Be based on individual nutrient criteria, with different criteria applied to different food groups.** These food groups should reflect the core food groups denoted in the Dietary Guidelines, with an additional category for extra foods, and category specific nutrient criteria that consider the properties unique to that food group, with an emphasis on the nutrients which have the greatest public health significance within each food group. Dietary modelling should be used to determine the nutrient criteria underpinning front of pack labelling, based on Nutrient Reference Values and Dietary Guidelines.
- **Be simple and quick for consumers to interpret.** Front of pack labelling must provide at-a-glance interpretation of nutrient information for consumers.
- **Be based on 100 g/mL of foods.** Factual information about the levels of key nutrients should be based on 100g or 100mL of the food or beverage product to avoid any manipulation of serving size information by food manufacturers.
- **Specify the absolute nutrient content of foods.** The absolute quantity (g/mL/mg/kJ) of each nutrient should be included on the front of pack label. This will allow consumers to differentiate between products at a more discrete level.
- **Comprise one consistent system.** To avoid consumer confusion one consistent front of pack labelling system should be introduced rather than a range of systems permitted.
- **Be based on independent consumer research, comparing a range of different Front of pack systems.** This research must be transparent and stand up to peer review.
- **Be introduced across all packaged retail grocery food products.** Front of pack should be introduced initially across all packaged retail grocery food products that are eligible for Nutrition Information Panels, with intent to extend labelling to restaurant chains with standard menu items.
- **Be accompanied by public education.** An extensive public education campaign must accompany the implementation of front of pack food labelling to inform consumers how to interpret the labelling system in the context of other government healthy eating guidelines.

- **Be statutory in nature and fully enforced.** Only mandatory, legally enforced front of pack food labelling regulations will ensure that the system is equitably applied across all food products, giving maximum benefit for consumers. Compliance with the regulations will need to be independently monitored and enforced.
- **Be monitored and evaluated.** The front of pack labelling scheme will need to be monitored and evaluated to ensure that it meets its stated objectives.

Cancer Council urges the Review Panel not to be stalled by calls for unrealistic and unattainable proof of the effectiveness of front of pack labelling on consumers' food purchasing behaviours. Research has clearly demonstrated the efficacy of Traffic Light food labelling in assisting consumers to interpret nutrition information and identify healthy food products, under survey conditions. This research is important in establishing that Traffic Light labelling can assist in developing a better informed population.

Cancer Council, in collaboration with public health and consumer organisations, conducted intercept surveys ($n = 790$) at shopping centres to assess consumers' preferences for, and ability to use different front of pack systems.⁶ Participants were exposed to mock food packages displaying one of four different front of pack labelling systems, including two variations of the Percentage Daily Intake (%DI) (Monochrome %DI and Colour-Coded %DI), and two variations of the Traffic Light system (Traffic Light and Traffic Light + Overall Rating).

Consumers indicated strong consumer support for nutrition information to be included on the front of food packages, particularly saturated fat, sugar, total fat and sodium, and for a single, consistent front of pack food labelling system across all food packages.⁶

While consumers thought the Colour-Coded %DI food labelling system (a variation of the industry preferred %DI) would be easiest to use, their actual ability to use the nutrition information for either variant of the %DI system was significantly poorer than for the Traffic Light system.⁶ Consumers using the Traffic Light system were five times more likely to correctly identify healthier food products compared to consumers using the standard %DI system, and three times more likely to correctly identify the healthier products compared to consumers using the Colour-Coded %DI system.⁶ Further, use of the %DI system was associated with socio-economic status, with those in the most disadvantaged groups less likely to be able to use this system.

A copy of the published research is included with this submission.⁶

Researchers from the University of Auckland have conducted consumer testing with grocery buyers ($n = 1525$) to determine use, understanding and preferences related to different nutrition labels, including the Traffic Light system, %DI and NIPs.¹⁴ The Traffic Light system was consumers' preferred system and also performed the best in assisting consumers to identify healthier food choices. Consumers' ability to interpret %DI was associated with ethnicity, with a poorer understanding of this system amongst Asian and Maori people.¹⁴

Also, researchers from Massey University tested consumer's evaluation of the nutritional quality of breakfast cereals, using either Traffic Light labelling, %DI labelling or NIPs (control).¹⁵ While both Traffic Light and %DI labelling enhanced consumers' ability to evaluate the products more accurately compared to the control, Traffic Light labelling performed significantly better.

The UK Food Standards Agency have conducted extensive consumer research on front of pack food labelling since 2004: identifying consumers' preferences for different front of pack labelling

formats; performance testing to determine consumers' ability to use different front of pack labelling systems; and determining how front of pack labels are used by consumers in the supermarket environment.

The most recent and comprehensive research from this organisation, released in May 2009, used a combination of qualitative (shopping bag audits, $n = 112$; and omnibus survey, $n = 4534$), observational (in supermarkets, $n = 113$) and qualitative methods (in-depth interviews, $n = 50$) to: determine the effectiveness of different labelling systems in allowing consumers to identify products' nutrient levels; assess consumers' use of front of pack labels in the retail environment; and determine the effect of the co-existence of multiple labelling formats on consumers' interpretation.¹⁶

Major findings of this research were that:

- Labels using the words “high”, “medium” and “low” as well as Traffic Light colours achieved the highest level of comprehension with consumers (71%). However, labels that combined these nutrient indicators (words and colours) together with percent Guideline Daily Amount performed equally well (70%), and were also one of the most preferred label formats.
- Some shoppers use energy to determine the nutritional value of products, although the inclusion of energy has no effect on comprehension.
- Consumers who use labels value them, although other factors also influence purchasing decisions.
- Consumers are most likely to use front of pack labels when they are buying a product for the first time, when comparing between products, when shopping for children and when trying to reduce their intake of certain nutrients or their weight.
- The coexistence of multiple labelling formats introduces considerable difficulty in comprehension for consumers.

Earlier research, using qualitative focus group research, showed strong consumer support for the introduction of a single consistent front of pack food labelling system on packaged food, to be developed by an independent organisation.^{17, 18} Using quantitative consumer performance testing ($n = 2,600$) the majority of consumers preferred labelling formats with colour coding together with high, medium, and low indicators or information on nutrient levels to assist in the interpretation of colours.¹⁹ Colour-coding was perceived to assist consumers in making food purchasing decisions at-a-glance. Some consumers were unable to use the numerical information provided on percent Guideline Daily Amount labelling correctly and were confused by the use of percentages. Consumers supported the inclusion of fat, saturated fat, sugars and salt on front of pack labels and perceived the strongest need for front of pack labelling on processed foods.

The UK consumer group Which? have also conducted consumer testing ($n = 636$) to determine consumers' ability to correctly use and interpret different front of pack labelling systems.²⁰ Labelling attributes including their ease and speed of use, and the level of information provided were assessed, together with consumers' ability to correctly identify healthy food products. The Traffic Light system was rated better than the other systems for the majority of these performance indicators. Based on this research, the introduction of front of pack labelling using colour coding with high, medium and low indicators and an initial focus on fat, saturated fat, sugar and salt was recommended.

Based on findings from this and other previous international research, and in line with the recommendations of the National Preventative Health Taskforce, Cancer Council Australia recommends that front of pack food labelling be introduced into the Australian grocery market. To assist consumers in their interpretation of this labelling, one consistent labelling format which uses

Traffic Light symbols and a coloured schema should be used. This labelling can support consumers by providing them with accurate nutrition information in an understandable format, and ultimately, will assist consumers to select healthier food products. The introduction of interpretative nutrition labelling is also likely to encourage the production of healthier food products, as industry would be eager to attain more desirable nutritional profiles.

The Review Panel will no doubt be aware of a study published in the journal, *Health Promotion International* in 2009, that assessed the sales impact of front of pack Traffic Light nutrition labelling on consumer food purchases of ready meals and sandwiches in the UK.²¹ The study did not show any association between the introduction of the Traffic Light label system and the healthiness of the products purchased.²¹ The authors of the paper emphasised the many limitations of this study. In particular, that it was conducted on a small sample of products, with only about 4% of the total range of ready meals examined in the study. It would be expected that if Traffic Light food labels were mandatory on most food packages, consumers would be more likely to compare information if it is well recognised and used across a range of products and food categories. Furthermore, the study measured only the immediate impact of the Traffic Light labels (i.e. 4 weeks after they were introduced). In reality, it is likely that front of pack labelling would influence consumer choices over a longer period of time and in conjunction with an education campaign. The authors concluded that this study should not preclude the possibility of Traffic Light labelling delivering public health benefits.²¹ It is also important to note that there have been no similar studies conducted on the impact of percentage daily intake and whether that labelling system assists consumers to make more purchases of healthier foods.

Waiting until we have evidence of the effectiveness of this system on consumers' purchasing behaviours in real-world settings (difficult provided the rejection of this system by food retailers in Australia) is not only unnecessary, given the demonstrated benefits to consumer knowledge and sovereignty, but will hamper the potential public health benefits that are likely to be associated with the introduction of this labelling.

Q27. What is the case for food label information to be provided on foods prepared and consumed in commercial (e.g., restaurants, take away shops) or institutional (schools, pre-schools, worksites) premises? If there is a case, what information would be considered essential?

Eating patterns in Australia are changing, with increases in consumer preference for convenience foods and eating outside of the home. The average Australian spends 42 cents in every food dollar on food prepared outside the home.²² This means that food labelling information is required in the settings where large numbers of people eat regularly.

Cancer Council supports the introduction of compulsory nutrition information labelling on Quick Service Restaurant/fast food menus at the point of sale, for example on menus and menu boards. As food choices in many Quick Service Restaurants are energy dense and nutrient poor, nutrition information labelling would assist consumers to consider healthier options. Mandatory nutrition information labeling in Quick Services Restaurants would provide an added advantage for these types of food outlets to provide healthier choices and reformulate products.

Early results on the impact on the United States (US) legislation requiring fast food outlets to display calorie and/or other nutritional information on menus in a number of US states, cities and counties, including New York City indicate positive results, and should be considered for introduction in

Australia. In the US, the requirements for nutrition labelling apply to chain restaurants consisting of 20 or more outlets nationally doing business under the same name.

A study on the impact of nutrition labelling on fast food menus on parents' food choices for children found that parents presented with menu labelling ordered an average of 102 fewer calories for children than parents who did not have menu labelling.²³

Consumer research testing would need to be undertaken in Australia to determine what information is essential and of most value to the majority of consumers at the point of sale. Information on the energy content (kilojoules) that is both easy to understand and interpret would be of most importance.

Q28. To what degree should the Food Standards Code address food advertising?

The issue of food advertising, especially when directed at children, is of concern, and clearly there is a gap in regulation. Although we acknowledge that the broader issue of marketing and advertising to children is beyond the scope of this review and needs to be addressed on its own merits, Cancer Council reiterates that the Food Standards Code could more effectively regulate the use of nutrition content and health claims which are frequently used in food advertising. Cancer Council supports the pre-approval by FSANZ for health claims, which would only be permissible on foods that meet overall criteria for healthiness as determined by the nutrient profile scoring system. We also urge the Review Panel to recommend that nutrition content claims not be permissible on food products that do not meet overall criteria for healthiness.

Cancer Council believes the introduction of a front of pack labelling system as discussed in Q26, such as Traffic Lights, to assist consumers to interpret the nutrition information on a food label could be extended to food advertising.

Consideration should also be given to the use of packaging in advertising (for example, using cartoon characters, celebrities or sports stars), as this may be a significant influence on food choices in children.¹² Food items not meeting overall criteria for healthiness should not be able to use images of characters or personalities to market the product.

Q29. In what ways can consistency across Australia and New Zealand in the interpretation and administration of food labelling standards be improved?

Consistency across Australia and New Zealand in the interpretation and administration of food labelling standards could be improved by the introduction of a single interpretative food regulatory agency. The development of overarching labelling policy guidelines which promote the public health function of food regulation (see Q1 for proposed definition for public health), would also be another step forward to addressing this issue of variable interpretation and administration.

Q30. In what ways can consistency, especially within Australia, in the enforcement of food labelling standards be improved?

Cancer Council believes that FSANZ should be responsible for enforcement and be given extra capacity to be the single interpretative agency on food labelling standards. At the moment, FSANZ sets the standards and more recently has started developing interpretative guidelines to accompany

new standards, while enforcement of compliance and monitoring is the responsibility of state and local council jurisdictions. As state health departments and local councils make interpretation judgements on food standards, this has led to widely differing interpretations across the country. FSANZ's expertise in food regulatory matters would mean they are well placed to take on a more significant role in enforcement of food labelling standards.

The Australian Competition and Consumer Commission (ACCC) may be another option for establishing single interpretative agency on food labelling standards. However it would be necessary for there to be close liaison between FSANZ and the ACCC in order to contribute the necessary food and nutrition expertise.

Q31. What are the strengths and weaknesses of placing the responsibility for the interpretation, administration and enforcement of labelling standards in Australia with a national authority applying Commonwealth law and with compatible arrangements for New Zealand?

The strengths and advantages of placing the responsibility for the interpretation, administration and enforcement of labelling standards in Australia with a national authority applying Commonwealth law would be:

- Consistency of interpretation across the country
- Less resource burden on smaller states to enforce labelling standards
- Less resource burden for those states who are already stretched in monitoring and enforcing food standards.

The weaknesses in placing the responsibility for the interpretation, administration and enforcement of labelling standards in Australia with a national authority applying Commonwealth law would be:

- Potentially, it would take longer for complaints to be processed.
- Expense.

However Cancer Council believes that the weaknesses can easily be addressed and are outweighed by the advantages.

Q32. If such an approach was adopted, what are the strengths and weaknesses of such a national authority being an existing agency; or a specific food labelling agency; or a specific unit within an existing agency?

The strengths of using an existing agency, a specific food labelling agency or a specific unit within an existing agency is that existing structures could be used rather than setting up new ones – making any changes quicker to implement.

However the weaknesses in using an existing agency, a specific food labelling agency or a specific unit within an existing agency is that the new role of the existing agency or unit would need to be promoted and communicated to eliminate confusion and provide clear guidance for all stakeholders.

Q33. *If such an approach was adopted, what are appropriate mechanisms to deal with the constitutional limits to the Commonwealth's powers?*

No comment as this is not an issue of relevance to the Cancer Council, and should be addressed by the Food Regulation Standing Committee.

Q34. *What are the advantages and disadvantages of retaining governments' primary responsibility for administering food labelling regulations?*

As discussed in other parts of this submission, government regulation of food labelling is essential because of the importance of this issue to achieving positive public health outcomes. Mandatory labelling requirements are crucial for ensuring food safety, and promoting the health of the population.

Q35. *If a move to either: self regulation by industry of labelling requirements; or co-regulation involving industry, government and consumers were to be considered, how would such an arrangement work and what issues would need to be addressed?*

Cancer Council is strongly opposed to any move to industry self regulation and believes it should NOT be considered for the following reasons:

- There is strong public interest concern and health and safety concerns.
- The problem is not a low risk event, of low impact/significance.
- The food industry is a diverse group of organisations and there are significant limitations in their being represented through one peak body.
- Quick complaints handling and redress mechanisms need to be the responsibility of government.

Q36. *In what ways does such split or shared responsibility strengthen or weaken the interpretation and enforcement of food labelling requirements?*

If the interpretations and enforcement of the requirements were split or shared, the integrity of the requirements may be compromised. That is, the more interpretations of the requirements there are, the less accurate they will be and therefore enforcement will be weakened.

Cancer Council believes that if labelling requirements are more clearly stated, there will be no need for multiple interpretations. In this respect, Cancer Council believes that responsibility for the interpretation and enforcement of the food labelling requirements should rest mainly with FSANZ, as discussed in Q30.

Q37. *What are the strengths and limitations of the current processes that define a product as a food or a complementary medicine?*

As discussed in Q11, at present the Food Standards Code only allows health claims relating to folate and pregnancy, therefore other therapeutic claims are not permitted. Under the Therapeutic

Goods Advertising Code foods are excluded unless they are listed in Section 7 of the Therapeutic Goods Act, where the food is able to be listed as a therapeutic good if a consumer would perceive it as such.

These systems should allow clear definitions between foods with health claims and therapeutic goods. However there are a number of products for sale in supermarkets and health food shops, such as weight loss products or those targeting the management of blood sugar levels that slip through the cracks between the state and territory food authorities and the Therapeutic Goods Administration.

As stated in Q29, the introduction of a single interpretative food regulatory agency across Australia and New Zealand could help rectify the issues between foods. Aligning requirements on therapeutic goods between the two countries would also be beneficial.

Q38. What are the strengths and weaknesses of having different approaches to the enforcement of food labelling standards for imported versus domestically produced foods?

It is essential for safe food and a health promoting food supply that the same approaches need to be taken for both imported and domestically produced foods. It is essential that labelling regulations focus on consumer well being as the end point, and not decreased regulatory burden.

Q39. Should food imported through New Zealand be subject to the same AQIS inspection requirements?

No comment as this is not an issue of relevance to the Cancer Council.

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Appendix: Evaluating the effectiveness of a food labelling system: Principles of research best practice

Measured Outcome

- Whether consumers are more able to correctly identify the healthier product when making product comparisons using one labeling system over another. Effectiveness is determined in comparison to one or more alternative labeling systems that are currently in use or proposed.
- The above outcome necessitates the determination of which product is healthier, and is based on an independent government standard (e.g., nutrient profiling, National Heart Foundation criteria, panel of dietitians).

Design

- An experimental research design is employed to provide empirical data. Effectiveness data does not result from self-reported preference for a particular food labelling system or a prospective report of which system consumers would use in making a purchase-decision. Current research indicates one is not a proxy for the other (Kelly et al., 2009).
- The evidence-base for effectiveness is demonstrated at the consumer-level (not for example at the level of industry uptake or product sales).
- A control condition is employed (a suitable control condition is absence of a front-of-pack label and the option to access the Nutrition Information Panel).
- Product comparisons are made within the same food category (for example, consumers compare one breakfast cereal with another breakfast cereal).
- Consumers are randomly assigned to a food labelling (or control) condition to reduce potential confounders.
- Consumer exposure to products is rotated to reduce order bias.
- Consideration is given to the food categories employed such that they are not wholly healthy or unhealthy (based on an independent government standard, e.g., nutrient profiling, National Heart Foundation criteria, panel of dietitians) such that there would be no bias introduced in assessing the effectiveness of the labeling system based on food categories that consumers already know to be a healthy or unhealthy choice. A reasonable number of three to four different food categories are employed.

Sample

- A sample of adults (aged 18 and over) that is representative of the population with reference to socio-economic status (as determined by individual level measures) and location (metropolitan and rural/regional) is surveyed.

- The sample is drawn from a suitable sampling frame to allow recruitment of a representative sample (e.g., a national online panel).
- The sample is of a predetermined magnitude to allow the detection of statistically significant differences between food labelling systems (and the control condition) should these be present.
- The main (or shared main) household grocery buyer is surveyed and potential participants are excluded if they have close family/friends employed in food or marketing industries, or are dietitians/nutritionists.

Materials

- The food packages do not reflect actual products available on the market in order to reduce consumer biases related to prior knowledge of the product. The packages are mock-ups or actual products available only to overseas markets.

Analysis and Reporting

- The statistical significance of findings is tested and reported.
- Socio-demographic characteristics of respondents are reported.
- The research is of a standard publishable by national or international peer review.
- Approval to conduct the study is given by an independent ethics committee with jurisdiction over the institution or organisation conducting the research.