

## Executive Summary

The executive summary is structured in terms of the Matters for Review outlined in the terms of reference. Numbers in brackets refer to the recommendations in the Report, a full list of which is provided at the end of this summary and in context, within the body of the Report.

The food label is the arena in which many of the most intense disputes over food take place, for the label provides the most public face for controversies over food. It is also one of the most highly valued and competitively sought after communication channels in the market place. As the battle for space on the label has intensified, and the often competing interests of consumers, industry and government come to the fore, food labelling policy has evolved in a sporadic fashion to satisfy a range of interests, including protecting consumers. The crux of the Review was therefore to address the tensions between these interests that drive policy and to seek to resolve them. The 61 recommendations contained in this Report are designed to address this ad hoc approach to food labelling and provide a clear path forward.

### **Examine the policy drivers impacting on demands for food labelling**

The Panel suggests that a consideration of the policy drivers — consumers' needs for information; industry's need for marketing flexibility and minimal regulatory burdens; and government's objectives in the area of individual and population health — provides a framework for deriving principles for regulatory intervention in order to steer the flow of labelling events. Exploration of these demands revealed the ubiquity and breadth of health concerns, particularly the growing acceptance of government's preventative health role in reducing the risk of chronic diet-related disease. A definition of public health in the *Food Standards Australia New Zealand Act 1991* would decrease ambiguity regarding the role of the food regulator and would place appropriate focus on broader public health issues [1].

As a consequence of this recognition, the Panel recommends that a comprehensive Nutrition Policy be developed that includes a framework for the roles of the food label [9, 10]. Once established, the comprehensive Nutrition Policy should inform the development or variation of labelling standards. Such an operational base will in part address the requirement for evidence of significant health or behavioural impact and economic assessments for individual food standards, a requirement which at present can act as a barrier to utilising the food label more effectively.

### **What principles should guide decisions about government regulatory interventions in food labelling?**

The cornerstone of the Panel's approach is an Issues Hierarchy in descending order of food safety, preventative health, new technologies and consumer values issues. This classification, which is essentially a risk hierarchy, governs the initiation of regulatory action, the modes of intervention and where rules and oversight should lie [2]. Regulatory actions in relation to food safety, preventative health and new technologies should be initiated primarily by government and referenced in the Code. Regulatory actions in relation to consumer values issues should be initiated generally by industry [37, 38]. These would rely on the 'misleading or deceptive' provisions in consumer protection legislation, with the possibility of some specific methods or processes of production being referenced in the Code [36]. The most significant consequence of this referencing is that country-of-origin

labelling — a consumer values issue — be provided for in a specific consumer information standard for food within consumer protection legislation rather than in the Code [41].

The modes of intervention should be mandatory for food safety, on which point there is little disagreement. For preventative health there would be a mixture of mandatory and co-regulation requirements, the choice dependent on government health priorities and the effectiveness or otherwise of co-regulatory measures. For new technologies there should be, as a general principle, mandated identification on the label of foods or ingredients treated or produced by such technologies for a period of 30 years after their introduction into the human food supply chain, at the end of which time the need for such identification should be reviewed [28]. The modes of intervention for consumer values issues should be self-regulatory but subject to more prescriptive forms of intervention in cases of market failure, as the Panel argues in the case of country-of-origin issues [40, 41] or the ineffectiveness of self-regulatory schemes [39].

### **Consider what policies and mechanisms are needed to ensure that government plays its optimum role**

In the light of the above principles, government would play its optimum role in food labelling by ensuring labelling to guarantee food safety; by working with industry to use labelling to encourage healthy eating and population health; by taking a prudent approach to the labelling of foods and ingredients produced or processed by new technologies; and by acting to ensure that industry self-regulation in the field of consumer values provides consistent and accurate labelling to enable consumers to make informed choices.

The whole system is envisaged as one of responsive intervention that requires coordination across portfolios [4, 21, 23, 41, 59] and jurisdictions [3, 57, 58]. If softer measures fail there would be opportunity for escalation to more prescriptive modes of regulation. Moreover, where label changes are recommended, the Panel advocates a generous time period to encompass the change, as well as grandfathering for labels on products that have a long shelf life.

There is also a need to broaden the coverage of food labelling laws to reflect the range of environments within which people now purchase their foods. The significant extent to which Australians and New Zealanders now consume food outside the home has led the Panel to recommend the provision of nutrition information on menus/menu boards in chain food service outlets that have standardised menu items, and on vending machines [18].

### **Consider principles and approaches to achieve compliance with labelling requirements, and appropriate and consistent enforcement**

As a general principle of good governance, it is necessary that the members of the community feel confident that the food regulatory system, which is designed to protect its health and safety, operates effectively. As such, once the case for a labelling standard has been established and becomes part of the Code, it must be monitored and enforced by the jurisdictions with as high a priority as any other food standard [3, 6, 7, 57]. A similar high priority should be given by the consumer protection agencies to consumer values issues [4, 59]. Labelling standards should also be written in such a way that they both clearly convey what is required of industry and are capable of being enforced should a prosecution occur [60]. In addition, a more versatile range of enforcement provisions should be introduced [58].

The Panel accepts that for a range of reasons it is desirable to leave responsibilities for the statutory requirements for compliance and prosecution as they are currently. However, if food labelling is to be taken seriously, a Food Labelling Bureau (the Bureau) should be established to advise Australian and New Zealand ministers on all aspects of labelling policy [61]. Resources for this Bureau must reflect the high profile that food labelling has as the most public face of food policies, standards and laws. The Bureau's role would be administrative, advisory and a monitor of compliance and enforcement. It would be user-friendly for consumers and industry and would marshal and support the resources already on the ground.

### Evaluate existing work on health claims

The Panel proposes a responsive regime of nutrition, health and related claims covering the use of simple words that may infer health implications [19] and a hierarchy of substantiation of claims and validation through an agreed nutrient profiling system, plus further conditional requirements [20]. In addition, the Panel recognises the need to prevent the subversion of the proposed system by unscrupulous use of trade names and trademarks that could imply claims prohibited in the Code [21]. Governments may also wish to make health claims through mandatory health messages supporting preventative health strategies. These would have to meet the same substantiation requirements as industry health claims. In addition, as they involve taxpayer funds, intervention would have to be justified by reference to both the extent of the health problem and the strength of the causal links between the health problem and the messages, and only be embarked upon as part of a multifaceted social campaign [22, 24]. The introduction of health claims in the food regulatory regime will make urgent the development of a seamless regulatory approach for food, complementary medicines and dietary supplements [23].

### Evaluate existing work on front-of-pack labelling

The use of interpretative symbols or endorsements on labels has the potential to convey essential nutrition information when included as one of multiple strategies to facilitate healthy eating choices [50]. As there is now a growing consensus between industry, consumers, health advocacy groups and governments in favour of front-of-pack labelling, the issue before the Panel was what form it should take. The Panel recommends that a multiple traffic lights (MTL) front-of-pack labelling system be introduced. Such a system is to be voluntary in the first instance, except where general or high level health claims are made or equivalent endorsements/trade names/marks appear on the label, in which case it should be mandatory [51, 52, 53]. The Panel also recommends that chain food service outlets across Australia and New Zealand be encouraged to display the MTL system on menus/menu boards [54], but that beverages containing alcohol be exempt from any MTL requirements [55].

### Evaluate current policies, standards and laws relevant to food labelling

Using this overall framework, the Panel addressed a number of detailed issues raised in the submissions and consultations which are not dealt with elsewhere in this summary.

**Public Health and Food Safety:** In relation to the ingredients list, the Panel recommends work on a number of codes of practice to enable consumers to readily identify additives, colourings and flavourings of agreed medical priority [8, 11], and changes to the declaration

of added sugars, added fats and added vegetable oils [12]. The Panel recommends several changes to the Nutrition Information Panel (NIP), including the possible explicit inclusion of trans fatty acids [13]; the inclusion of fibre content [14]; clarification of salt content [15, 16]; and some simplification of presentation [17].

**Alcohol:** While recognising the unique features of alcohol as a food, the Panel sees no prima facie reason for excluding alcohol from the scope of the Review, given alcohol's inclusion in the Code. The Panel is of the view that the requirement for alcohol to display additional labelling information does not automatically exempt it from adhering to other existing requirements. The Panel further believes that there are compelling reasons for applying labelling changes to alcohol in the light of the growing evidence relating to the short- and long-term adverse health effects of alcohol consumption. The Panel therefore recommends that a suitably worded warning message about the risks of consuming alcohol while pregnant be mandated on individual containers of alcoholic beverages and at the point of sale for unpackaged alcoholic beverages [25]; that the energy content be displayed on the labels of all alcoholic beverages, consistent with the requirements for other food products [26]; and that drinks that are mixtures of alcohol and other beverages comply with all general nutrition food labelling requirements [27].

**New Technologies:** Given the general principle enunciated in this Review that there should be mandatory labelling of new technologies for 30 years after their introduction into the food supply chain and recognising that irradiated foods have been in the food supply for a generation, the Panel recommends that the necessity for mandatory labelling of irradiated foods be reviewed [34]. While recognising the difficulties, the Panel nevertheless believes it is urgent for the credibility of the regulator that a standard be established for regulating the presence of nanotechnology in the food production chain [35]. On the vexed question of genetically modified foods, the Panel assessed the various exemptions from genetic modification labelling in line with its principles and the relevant scientific evidence. The Panel endorses the exemption of foods or ingredients that have no altered characteristics or no detectable novel deoxyribonucleic acid (DNA) or protein [29]; endorses the present exemption for adventitious presence but recommends follow-up and monitoring of any adventitious event [30], and the provision of adequate laboratories, resources and skills for this and other tasks [33]; does not support the present exemption for flavours [31]; and, given the general position the Panel has taken on foods from chain food service outlets and vending machines, does not support their exclusion from the requirement to declare genetically modified foods or ingredients [32].

**Consumer Values Issues:** The remaining issues in the consumer values field relate to the one presently mandated intervention — country-of-origin labelling (CoOL). While CoOL is comprehensive in Australia, there are a few inexplicable primary product exceptions, and the Panel believes the loophole should be closed and that CoOL should be extended to cover all primary products for retail sale [40]. There is extraordinary public confusion over the 'Made in Australia' claim and the Panel favours the development of an unambiguous and consumer-friendly Australian-origin claim based on the ingoing weight of the various components of the food, excluding water [42].

**Presentation:** The effectiveness of the recommendations in practice will depend on the consumer's ability to notice, read and comprehend the information provided. It is a fundamental principle that food labels be presented in a clear and comprehensible manner to enhance understanding across all levels of the population [5, 43]. The Panel

recommends a prescriptive minimum font style [44] and a minimum contrast level [46] for all mandatory information, and the emboldening of warning and advisory statements and of allergens [47]. The Panel would encourage government and industry to work together to establish guidelines for other presentational factors [45] and to work towards a co-location of mandatory health information presented in a standardised fashion [48]. New information technologies should be investigated both for automated label assessments [49] and for forms of extended product labelling [56].

## Conclusion

This Report provides a comprehensive framework within which future food labelling law and policy can be determined. As well, using this framework, the Panel has made a wide range of specific recommendations to improve food labelling law and policy. Consequentially and appropriately, given the wide-ranging scope of the Review and its terms of reference, adoption of these recommendations will lead to:

- a clear path to guide government decisions about regulatory intervention;
- a fundamental shift in thinking about the remit of Food Standards Australia New Zealand (FSANZ) and the broader food regulatory system with regard to public health;
- an impetus for industry collaboration to achieve self- and co-regulatory mechanisms that ensure a level playing field while meeting the demands of consumers and governments;
- a more strategic, transparent and informative food labelling system, which instils confidence in Australian and New Zealand consumers;
- greater resourcing from governments to support food labelling that is meaningful, consistent and that addresses issues identified in a comprehensive nutrition policy; and
- a centralised body for, and source of, food labelling information for consumers, industry and government, with roles in administration, advice and monitoring.

A full list of the Panel's recommendations is provided on the following pages.