

Legislative and Governance **Forum on Food Regulation**  
(convening as the Australia and New Zealand  
Food Regulation Ministerial Council)

**Response to the Recommendations of**  
*Labelling Logic: Review of Food Labelling Law*  
*and Policy (2011)*

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## Foreword from the chair

Following the announcement by the Australia and New Zealand Food Regulation Ministerial Council of the Review of Food Labelling Law and Policy, an independent panel, chaired by Dr Neal Blewett AC, had the enormous task of reviewing this very important issue for the community. This is evidenced by the overwhelming interest the review generated.

The terms of reference for the review were broad and, for the first time, offered an opportunity for consumers, industry, relevant stakeholder groups, governments and experts in a range of fields to comment on the current and future role of food labelling.

The Legislative and Governance Forum on Food Regulation (convening as the Australia and New Zealand Food Regulation Ministerial Council) acknowledges the contributions made to the review and the challenge faced by the review panel as it considered and analysed the issues to prepare the recommendations in *Labelling Logic: Review of Food Labelling Law and Policy 2011*. Many of the issues generated considerable debate during the review, and have been the subject of deliberation by governments in Australia and New Zealand and internationally for some time now. It is acknowledged that some issues will continue to be a focus in the future as we strive to maintain our food safety, security and sustainability.

In considering the recommendations, the Legislative and Governance Forum on Food Regulation's response, proposed actions and implementation over the next decade endeavour to balance improving the information on food labelling to meet consumer needs against maintaining marketing flexibility and minimising the regulatory burden on industry and barriers to trade. Alongside this, we have also reflected on the potential role of food labelling in helping to address population health priorities and the extent to which information about food ingredients, production processes, manufacturing technologies and the presence of additives and allergens should be declared on labels.

In partnership with governments, and working cooperatively to implement many of the principles and intentions of *Labelling Logic*, the food industry will continue to be one of the most indispensable industries in our society. Improving our food regulatory system, including food labelling in Australia and New Zealand, will continue to support, sustain and encourage this vibrant industry and, importantly, provide consumers with information to make more informed choices to optimise their health and wellbeing.



Catherine King MP  
Parliamentary Secretary for Health and Ageing  
Chair, Legislative and Governance Forum on Food Regulation

## Abbreviations used in this document

ACCC	Australian Competition and Consumer Commission
ACL	Australian Consumer Law
AFGC	Australian Food and Grocery Council
AHMAC	Australian Health Ministers' Advisory Council
ALAC	Alcohol Advisory Council of New Zealand
CCA	<i>Competition and Consumer Act 2010</i>
CIS	Food Standards Australia New Zealand Code Interpretation Service
COAG	Council of Australian Governments
CoOL	country-of-origin labelling
FoFR	Legislative and Governance Forum on Food Regulation (convening as the Australia and New Zealand Food Regulation Ministerial Council)
FoPL	front-of-pack labelling
FRSC	Food Regulation Standing Committee
FSANZ	Food Standards Australia New Zealand
GM	genetically modified
ISC	Implementation Sub-Committee
MTL	multiple traffic lights
NHMRC	National Health and Medical Research Council
NPAPH	<i>National Partnership Agreement on Preventive Health</i>
NZCC	New Zealand Commerce Commission
RDI	recommended daily intake
VITAL	Voluntary Incidental Trace Allergen Labelling
WHO	World Health Organization

## Executive summary

Food labelling plays a critical role in being a primary interface between suppliers and consumers. It is a finite space subject to an increasing demand to contain more information. The battle for space on the label has intensified and, over recent years, food labelling policy and standards have evolved in a sporadic fashion to protect consumers and ensure fair marketing. Food labelling standards for Australia and New Zealand are set out in the Australia and New Zealand Food Standards Code.

At the request of the Council of Australian Governments (COAG), the Australia and New Zealand Food Regulation Ministerial Council commissioned the Review of Food Labelling Law and Policy as part of the COAG National Seamless Economy reform agenda. In early 2011 an independent review panel, chaired by Dr Neal Blewett AC, completed the review and presented 61 recommendations for consideration by the Ministerial Council.

The Legislative and Governance Forum on Food Regulation<sup>1</sup> (convening as the Australia and New Zealand Food Regulation Ministerial Council, and hereafter referred to as ‘the FoFR’) welcomes the opportunity to respond to the review and to consider the role and purpose of food labels now and into the future. In developing a response and proposed plan of action to the recommendations, the FoFR has considered the terms of reference for the review, the COAG reform agenda and outcomes being sought by the recommendations. The FoFR has taken into account the views of industry and stakeholder groups, as well as industry and government capacity and readiness to move forward and implement change.

In its response the FoFR aims to:

- improve our existing food regulatory system by ensuring labelling continues to guarantee food safety as well as help consumers make more informed food choices
- signal that food labels could play an important role in supporting the longer term health of people in Australia and New Zealand
- support our food industry and encourage it to play a greater role in promoting healthy eating, being mindful not to unduly increase the regulatory burden.

The FoFR recognises that a number of recommendations are already being addressed through initiatives underway. It has identified that some recommendations could be delivered through alternative mechanisms to that suggested by the review panel. The FoFR has also concluded that, for a small number of recommendations, existing arrangements are adequate and changes will not be pursued at this time.

The FoFR welcomes the active involvement of the food industry and relevant stakeholder groups and experts to help develop the detail for implementing the suite of changes to improve our labelling system. The implementation plan will need to be developed in the context of existing policies of good regulation and our international trade obligations.

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<sup>1</sup> In September 2011 COAG launched the Legislative and Governance Forum on Food Regulation, thereby replacing the Australia and New Zealand Food Regulation Ministerial Council. The FoFR will be known as the Legislative and Governance Forum on Food Regulation (convening as the Australia and New Zealand Food Regulation Ministerial Council) until underpinning legislation is amended.

## Background

In 2008, as part of the National Seamless Economy agenda, the Council of Australian Governments (COAG) agreed a number of food reform initiatives, including that the then Australia and New Zealand Food Regulation Ministerial Council (Ministerial Council) undertake a comprehensive review of food labelling law and policy. The review of food labelling was an important review of what are matters of widespread interest to consumers, regulatory and the wider food and health sectors. The scope of ‘food labelling’ included any information, representations and claims about food that are, or could be, regulated under the Australia and New Zealand Food Standards Code or consumer protection laws.

The terms of reference for the review were announced by the then Ministerial Council in October 2009 and an independent review panel chaired by former Australian Health Minister Dr Neal Blewett AC was established. The review panel included public health law academic Dr Chris Reynolds, economic and consumer behaviour expert Professor Simone Pettigrew, food and nutrition policy academic Associate Professor Heather Yeatman, and food industry communications, marketing and corporate affairs professional Nick Goddard.

The review panel completed the review over a 12-month period. The review panel received almost 7,000 submissions from governments, industry, consumer groups and the public, and more than 550 stakeholders attended public consultation forums. A range of views were expressed about the role of food labelling. The review panel analysed those views, and the available evidence, to reach its conclusions and prepare its recommendations.

On 28 January 2011 the review panel presented its report: *Labelling Logic: Review of Food Labelling Law and Policy (2011)* to the then Ministerial Council. The report was publicly released on the same day.

The terms of reference, written submissions and the report are available at [www.foodlabellingreview.gov.au](http://www.foodlabellingreview.gov.au).

## Introduction

*Labelling Logic* contains 61 recommendations spanning several key themes including the policy drivers of food labelling; principles and criteria to guide government decision making on regulatory intervention; public health and safety; new technologies; consumer value issues; presentation; and compliance and enforcement.

Recommendations range from high-level principle proposals (such as a conceptual framework to guide decision making on the level of government intervention related to food labelling issues and a nutrition policy to define the use of food labelling for public health purposes) through to principles to underpin decisions relating to specific subject matters (such as nutrition and health claims), and to very technical recommendations (such as the font size used on food labels).

Many of the issues in *Labelling Logic* have challenged governments in Australia, New Zealand and internationally for a considerable length of time. These involve how to address the tension between consumers' demand for information on food labels, industry's desire to maximise the marketing potential of the label, and the need for government to apply a strategic approach to food labelling regulation. Underpinning these tensions are issues relating to the preventative health role of food labels, as well as consumers' values and ethics.

The role of food labels in communicating preventative health messages and informing healthy food purchasing decisions by consumers was a key focus of *Labelling Logic*. The chronic disease burden caused by poor diet is the largest cause of ill health in the community. It has a greater impact than smoking, physical inactivity and alcohol misuse.<sup>2</sup> The annual economic costs of obesity in Australia are estimated to be \$58.2 billion, comprising \$8.3 billion in financial costs and \$49.9 billion in net costs of lost wellbeing.<sup>3</sup> In New Zealand, approximately one in three adults is overweight and one in four obese, while one in five children aged 2–14 is overweight, and one in 12 is obese.

In addition, there is a growing acceptance of the key role that governments play in positively influencing consumers' dietary choices using a range of preventative health approaches, including food labels where appropriate. However, it is recognised that food labelling should not be used in isolation to provide consumers with information to promote healthy eating choices. Where the use of food labelling is appropriate, it should be part of a broader public health strategy for healthy weight and improved nutrition across the population. Similarly, encouraging industry to play a greater role in promoting healthy eating by supporting public health goals to maximise consumer health status and reducing the risk of chronic illness is strongly advocated in *Labelling Logic*.

The economic contribution made by the food and beverage industry in Australia and New Zealand is significant. The sector is the largest in the Australian manufacturing industry, accounting for around 20% of manufacturing sales and service income.<sup>4</sup> In 2009–10 there were 5,139 businesses operating in the food and beverage sector, with meat and meat product manufacturing representing

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<sup>2</sup> *Australia: the healthiest country by 2010*, Preventative Health Taskforce, Canberra: Australian Government

<sup>3</sup> Access Economics 2008, *The growing cost of Obesity in 2008*, Canberra: Diabetes Australia

<sup>4</sup> Department of Agriculture Fisheries and Forestry 2011, accessed at <[www.daff.gov.au/agriculture-food/food](http://www.daff.gov.au/agriculture-food/food)>

the largest product category by turnover.<sup>5</sup> In 2009–10 the food and beverage sector provided jobs for 226,750 Australians – around 18% of manufacturing sector employment, and 28% higher than in 2000–01. Much of this employment increase took place in the bakery products sector, with the meat, dairy and beverage industries also recording strong growth.<sup>6</sup> The majority of food sold in Australia is grown and supplied by Australian farmers – around 98% of fresh fruit and vegetables, meat, milk and eggs sold in supermarkets are domestically produced.<sup>7</sup> Australia is fortunate in being a net food exporter by a significant margin, with an estimated 54% of our food production being exported in the period 2006–07 to 2008–09. In 2009–10 Australia exported \$24.3 billion worth of food, compared with food imports of \$10.1 billion.<sup>8</sup>

Similarly, food and beverage manufacturing in New Zealand is crucial to the New Zealand economy, employing approximately 20% of the working population<sup>9</sup> with sales of approximately \$27 billion per annum. Foods and beverages account for more than half of New Zealand’s total merchandise exports at around \$15.3 billion per annum, with domestic retail sales of \$12.4 billion each year.<sup>10</sup>

Any regulatory decisions affecting the sector need to be reasonable and sensible. In addition the outcomes need to be practical to enforce by regulators. Any regulatory decisions impacting on the international competitiveness of the Australian and New Zealand food industries will need to be carefully considered. Policy discussions on some subject matter issues raised in *Labelling Logic* require more in-depth research and may require the development of regulatory impact assessments to inform future consideration.

The food labelling regulatory framework must strike a balance between seeking to ensure good public health outcomes (both short and longer term) and ensuring a strong and profitable food industry. For this reason, the development of a response and plan of action to the recommendations of *Labelling Logic* has been a complex task.

Governments recognise the need to consider the benefits and the costs and the particular interests that will be affected by implementing the recommendations supported in this response. These considerations must include contemporary issues such as the role of food labels in promoting healthy eating choices and reducing obesity, as well as our international obligations and the role of the food industry in contributing to the economic stability of both Australia and New Zealand. Also, the various agencies responsible for implementing any proposed changes must take into consideration the capacity for effective implementation. In developing the proposed action for addressing the issues outlined in each recommendation, consideration has also been given to an indicative timeframe within which to achieve progress.

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<sup>5</sup> Australian Food and Grocery Council. *State of the Industry 2010*, accessed at <[www.afgc.org.au/publications](http://www.afgc.org.au/publications)>

<sup>6</sup> Department of Agriculture Fisheries and Forestry 2011, accessed at <[www.daff.gov.au/agriculture-food/food](http://www.daff.gov.au/agriculture-food/food)>

<sup>7</sup> Ibid

<sup>8</sup> Department of Agriculture Fisheries and Forestry, *Australian Food Statistics 2009–10*, accessed at <[www.daff.gov.au/agriculture-food/food/publications/australian\\_food\\_statistics\\_2009](http://www.daff.gov.au/agriculture-food/food/publications/australian_food_statistics_2009)>

<sup>9</sup> Coriolis Research 2005, *Mapping the Structure of the New Zealand Food and Beverage Industry*, Prepared for the Food and Beverage Taskforce, Auckland

<sup>10</sup> Food and Beverage Taskforce 2006, *Smart Food Cool Beverage: New Zealand’s Future in the Food and Beverage Sector*, Wellington: New Zealand Trade and Enterprise

## RESPONSE AND PROPOSED ACTIONS

### 1. Policy drivers of food labelling

The review panel characterised the policy drivers of food labelling as the demands of government, industry and consumers, and further articulated these as: consumers' need for information; industry's need for marketing flexibility and minimal regulatory burden; and government's objectives in the area of individual and population health.

**Recommendation 1:** That the *Food Standards Australia New Zealand Act 1991* be amended to include a definition of public health to the effect that: 'Public Health is the organised response by society to protect and promote health, and to prevent illness, injury and disability'.

**Response:** Supports in principle

**Timeframe for commencement:** < 2 years

#### **Analysis:**

The review panel reported ambiguity regarding the role of Food Standards Australia New Zealand (FSANZ) in developing and reviewing food standards, in terms of whether it has a focus on broader public health issues. There is a perception among some stakeholders that, in addressing public health objectives, there is too much emphasis on food safety issues, without enough concern for the role of food labelling in a preventative health context. The review panel recommended that the *Food Standards Australia New Zealand Act 1991* (the FSANZ Act) be amended to include a definition of public health to address this issue.

#### **Comment:**

The expression 'public health and safety', which is currently in the FSANZ Act, is a term of broad meaning that does not exclude broader (i.e. non-food safety) public health issues. Although the proposed definition is not necessary from a legal perspective, there is merit in being clear about the expectations of FSANZ in relation to the role of food standards in supporting public health objectives and this should be progressed.

#### **Proposed action:**

In the first instance, a Ministerial Policy Guideline will be developed detailing the expectations of FSANZ in relation to the role of food standards in supporting public health objectives. The aim of the Ministerial Policy Guideline would be to decrease ambiguity regarding the role of FSANZ in developing and reviewing food standards and would require that FSANZ take into consideration both long-term health impacts and immediate health risks in the development of food standards while not changing the overall function and role of FSANZ. The Ministerial Policy Guideline will assist in ensuring the work of FSANZ is consistent with and complementary to, the roles of other key public health agencies within Australia and New Zealand. The Ministerial Policy Guideline will be developed within the existing legislative framework, and would make specific reference to

FSANZ. It must have regard to the *Overarching Strategic Statement for the Food Regulatory System*,<sup>11</sup> which clarifies the role of standards in supporting public health objectives.

In two years time the Ministerial Council Guideline will be evaluated to determine whether it has been effective in addressing the issue or whether there is still a need to include a definition of 'public health' in the FSANZ Act.

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<sup>11</sup> Food Regulation Standing Committee 2008, *Overarching Strategic Statement for the Food Regulatory System*

## 2. Principles and criteria

The review panel considered what principles and criteria should guide decisions about government regulatory intervention in food labelling. The review panel referred to the objectives set out in the FSANZ Act and also noted that an approach that applies with more discrimination to all stakeholders involved with food labelling was required.

### A food labelling hierarchy

**Recommendation 2:** That food labelling policy be guided by an issues hierarchy in descending order of food safety, preventative health, new technologies and consumer values issues. Regulatory action in relation to food safety, preventative health and new technologies should primarily be initiated by government and referenced in the Food Standards Code. Regulatory action in relation to consumer values issues should generally be initiated by industry and referenced to consumer protection legislation, with the possibility of some specific methods or processes of production being referenced in the Food Standards Code.

The modes of intervention should be mandatory for food safety; a mixture of mandatory and co-regulation for preventative health, the choice dependent on government health priorities and the effectiveness or otherwise of co-regulatory measures; and mandatory with time limits for new technologies. 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 or the ineffectiveness of self-regulatory schemes.

**Response:** Supports in principle

**Timeframe for commencement:** < 2 years

#### **Analysis:**

The review panel considered the role for government in regulating food labelling and the principles that should guide decisions about government regulatory intervention and, in addition, the policies and mechanisms needed to ensure that government plays an optimum role. A conceptual framework was developed to provide a principles-based approach for decision making regarding food labelling regulation. This framework is underpinned by a risk-based hierarchy comprising four tiers of food labelling issues, prioritised in descending order of food safety, preventative health, new technologies and consumer values.

#### **Comment:**

A principles-based framework that prioritises food labelling issues in terms of relative risk and provides guidance on the primary mode of regulatory intervention is considered a useful tool to enhance transparency and provide structure and direction into the future. The framework will not only provide guidance for the FoFR but will also be of assistance to industry and other interested groups. There is potential for the framework to have broader relevance at the interface of the food and consumer affairs regulatory systems; the wider community may also find the framework valuable to better understanding the rationale that underpins government decision making.

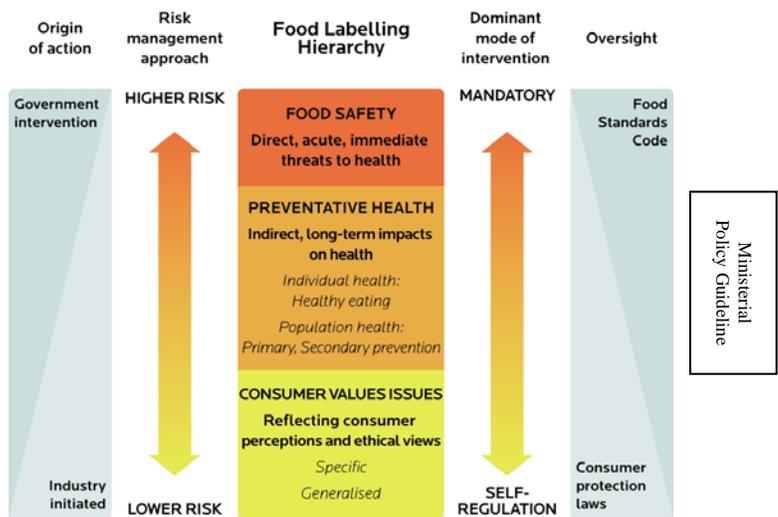
**Proposed action:**

A modified framework and issues hierarchy will be adopted as outlined below and explanatory notes including a Ministerial Policy Guideline will be developed. A mechanism will be put in place to give effect to the framework. The modified hierarchy will comprise three tiers (removing the new technologies tier as proposed by the review panel). In relation to new technologies, these will be considered on a case-by-case basis.

This response recognises that foods produced or processed using new technologies may need to be treated differently from foods produced using more traditional techniques due to the lack of historical data regarding human consumption, but that this should always take place on a case-by-case basis. Where necessary, foods that have been produced or processed using new technologies are subject to pre-market safety assessments, and must be assessed as safe before they are allowed to enter the food supply. (Refer also section 4, recommendation 28 in relation to labelling of new technologies).

A Ministerial Policy Guideline will be developed that sets out how the case-by-case consideration of both regulatory (i.e. labelling) and non-regulatory measures would apply to a new technology requiring pre-market safety assessment.

Below is a modified framework:



**Recommendation 3:** That once the case for a labelling standard has been established and becomes part of the Food Standards Code, sufficient resources be allocated to ensure that it is effectively monitored and enforced.

**Response:** Supports in principle

**Timeframe for commencement:** < 2 years

**Analysis:**

The review panel developed some high-level principles in relation to monitoring and enforcement of standards relating to food labels so that the community could be confident that the food regulatory system, which is designed to protect its health and safety, operates effectively. The review panel called for food labelling standards to be monitored and enforced by food regulatory agencies with as high a priority as any other food standard.

**Comment:**

There should be consistent and effective monitoring and enforcement of food labelling laws that involves all three tiers of government (in Australia) and multiple enforcement agencies. All decisions in relation to monitoring and enforcement should be made in the context of the level of risk and prioritised accordingly.

**Proposed action:**

The FoFR will explore a range of options to improve the capacity of the food regulatory system to monitor and enforce food laws in a more consistent and effective way. This work will take into account risk management principles. The Food Regulation Standing Committee (FRSC) (in consultation with its Implementation Sub-Committee (ISC) members) will develop a high-level regulatory monitoring and enforcement strategy and a possible package of enforcement tools (refer also section 7, recommendation 58) with advice on how this will be used. Proposed actions to address recommendation 7 will also be considered as part of this work.

**Recommendation 4:** That consumer protection concerns be accorded a high priority by the relevant government agencies and complaints be properly processed and resolved.

**Response:** Supports in principle

**Timeframe for commencement:** < 2 years

**Analysis:**

The review panel called for a higher priority to be given to food-related consumer protection concerns to maintain public confidence in the food industry and the accuracy of label information on which to base their purchasing decisions.

**Comment:**

The Australian Consumer Law (ACL), a cooperative reform of Australia's consumer protection laws, was enacted on 1 January 2011. The ACL protects consumer rights when buying goods and services and creates a national enforcement regime, with consistent enforcement powers for Australia's consumer protection agencies to take effective action for consumers.

The Australian Competition and Consumer Commission (ACCC), New Zealand Commerce Commission (NZCC) and State and Territory consumer protection agencies consider all complaints (including food labelling complaints) in accordance with their compliance and enforcement policies. Priority is afforded to matters involving significant detriment, widespread misconduct or national interest. Complaints are handled appropriately and, where possible,

resolved in a timely manner. However, this necessarily takes place within a broader context of limited resources and competing priorities of consumer protection agencies.

FSANZ has a memorandum of understanding with the ACCC to ensure cross-agency collaboration on food labelling issues that transcend both agencies.

**Proposed action:**

The FoFR considers that the priority applied to food labelling complaints should continue to be a matter for each consumer protection agency to manage within their existing frameworks. Relevant food regulatory and consumer protection agencies should continue to monitor the range of complaints and concerns to identify and respond when issues are identified that require regulatory enforcement action.

**Recommendation 5:** That information on food labels be presented in a clear and comprehensible manner to enhance understanding across all levels of the population.

**Response:** Supports in principle

**Timeframe for commencement:** < 2 years

**Analysis:**

This recommendation aims to place an emphasis on *enhancing* label comprehension for *all levels* of the population to ensure consumers with varying degrees of literacy, numeracy, health literacy, and cognitive and physical ability understand information presented on food labels.

**Comment:**

It is important for optimal comprehension and readability of information that appears on food labels; however, there are some design and presentational challenges in developing label information that is understood ‘across all levels of the population’.

**Proposed action:**

The FoFR will develop an overarching policy statement on food labelling that supports the principle that information on food labels be presented in a clear and comprehensible manner to enhance understanding. The policy statement will guide decisions and actions by both government and industry.

### 3. Public health and food safety

The review panel gave particular consideration to the role of food labelling in addressing the risks of chronic diet-related disease, as well as recognising that food safety information on labels should be accorded the highest priority. As such, these requirements and their monitoring should be reviewed to maximise their effectiveness.

In recent years Australian governments have made substantial investments in health prevention initiatives. Under the *National Partnership Agreement on Preventive Health* (NPAPH), COAG is providing \$872.1 million over six years from 2009–10 for a range of measures to address the rising prevalence of lifestyle-related chronic disease. This funding is being used for programs that are delivered in communities, early childhood education/care environments, schools and workplaces, and are supported by national social marketing campaigns.<sup>12</sup>

The FoFR recognises that significant national investment in food and nutrition monitoring and surveillance has occurred in recent years as a sub-set of action being taken under the NPAPH, including the Australian Health Survey, the Australian National Breastfeeding Survey and enhanced capacity for monitoring the NPAPH. However, additional capability in national coordination of food and nutrition monitoring and surveillance is still required as a priority. This is a long-recognised gap in the food system. The Australian Health Survey data will become available in 2012–13 and will contain critical information to underpin a nutrition policy and inform food regulation. Enhanced capability will maximise return on investment from the Australian Health Survey through interpretation and analysis of trends over time in food consumption, nutritional status and chronic diet-related conditions such as obesity.

#### Food safety elements

**Recommendation 6:** That the food safety elements on the food label be reviewed with the aim to maximise the effectiveness of food safety communication.

**Response:** Notes and refers to FSANZ for technical evaluation and advice

**Timeframe for commencement:** < 2 years

#### Analysis:

This recommendation proposes that the food safety elements of the label be considered at a technical level to ensure consumers' ability to access relevant information.

#### Comment:

Given the analysis presented by the review panel, there is justification to undertake further work to fully investigate and characterise the issues identified.

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<sup>12</sup> Department of Health and Ageing, accessed 26/09/11, <[www.health.gov.au/internet/main/publishing.nsf/Content/phd-prevention-np](http://www.health.gov.au/internet/main/publishing.nsf/Content/phd-prevention-np)>

**Proposed action:**

The FoFR will request that FSANZ undertake a technical evaluation and provide advice on the food safety elements on food labels. Advice from FSANZ will assist the FoFR to fully consider the expected benefits and cumulative impacts of possible changes to mandatory labelling requirements prior to proposing any amendments to the existing labelling requirements in the Food Standards Code, noting that food safety is the most critical message to communicate to consumers.

**Recommendation 7:** That there be more effective monitoring and enforcement of the existing requirements in the Food Standards Code to provide mandatory warning and advisory statements and allergen declarations on packages of food not for retail sale, foods for sale at restaurants and other food outlets, foods from mobile food vendors and vending machines, and foods for catering purposes.

**Response:** Supports in principle

**Timeframe for commencement:** 2–5 years

**Analysis:**

The Food Standards Code requires retailers and food outlets to provide information about allergens or other food components in unlabelled products upon request if the information is not already displayed. In the case of vending machines, the presence of certain allergens is required to be declared on or in connection with the dispensed food. This information can be critically important for those people who need information to manage food sensitivities and allergies.

The review panel indicated that the food service sector may not have a good understanding of its responsibility in this area and that appropriate systems may not be in place to ensure customers are able to access this information.

**Comment:**

It is important for people with food sensitivities and allergies to access information about allergens or other food components in unlabelled products where this information is not already displayed. Retailers and food outlets are already subject to routine inspections in relation to compliance with this requirement. Vending machines are not subject to this compliance regime, but the packaged products they dispense are subject to labelling requirements. The availability of information required to manage food sensitivities means that the vending machine issue does not relate directly to food safety but to the ability to access this information before purchasing the product.

It should be noted that the standard approach to compliance is to ensure there are sufficient education initiatives and understanding of regulatory requirements in the marketplace before moving to an enforcement approach. While recommendation 7 advocates more effective monitoring and enforcement, education is the first step.

The Food Regulation Standing Committee's (FRSC) Implementation Sub-Committee's (ISC) document *Strategy for the consistent implementation of food regulation in Australia* is the key mechanism in place to achieve effective and consistent monitoring and enforcement by food

regulatory enforcement agencies. It covers the existing requirements in the Food Standards Code regarding warning and advisory statements, as well as allergen declarations on packages of food not for retail sale, and foods for sale at restaurants and other food outlets, foods from mobile food vendors.

FSANZ completed a review of regulatory management of food allergens in December 2010 and found that current regulatory measures are adequate to manage the food allergy risks from foods that are exempt from bearing a label. FSANZ recommended some improvements to allergen management through a coordinated approach to education activities and other regulatory initiatives regarding allergen declaration in the food service sector.

**Proposed action:**

The FoFR will request that FSANZ works with the ISC to consider the recommendations of the FSANZ report, with a view to adopting those initiatives that will further enhance understanding of regulatory obligations in the food service sector.

**Recommendation 8:** That the Voluntary Incidental Trace Allergen Labelling system be explored as a possible supplementary model to manage food label declarations relating to the adventitious presence of allergens in foods.

**Response:** Supports

**Timeframe for commencement:** Not applicable

**Analysis:**

The Voluntary Incidental Trace Allergen Labelling (VITAL) system, which addresses adventitious presence of allergens in foods arising from cross-contact via machinery use in factories, has been identified by the review panel as a positive example of a collaborative approach between industry and consumers that has led to more meaningful food labelling. As such, this recommendation seeks to explore expanding the use of this tool by industry.

**Comment:**

Government, industry and affected consumers agree that it is important to have a system in place to manage labelling of allergens. Many food manufacturers that operate in Australia and New Zealand have implemented VITAL and have found it a useful tool to supplement their allergen management protocols. VITAL is an example of one system, and it is noted that there are other voluntary systems that also achieve the same outcome. In addition, the Allergen Bureau, established by the Australian Food and Grocery Council (AFGC), also assists consumers and industry to manage allergen labelling.

**Proposed action:**

The FoFR is supportive of the current activities of the Allergen Bureau and the recent scientific review of VITAL. The proactive work by industry is commended as it provides an innovative framework and a useful range of tools to assist manufacturers to progressively move towards best practice allergen risk assessment and labelling.

**Nutrition policy**

**Recommendation 9:** That a comprehensive Nutrition Policy be developed that includes a framework for the roles of the food label. Key aspects of the framework to be:

- (a) the provision of food safety and nutrition information and education strategies to protect and promote the health of the population, including articulated roles for food label elements;
- (b) the encouragement of the provision of healthy foods within the food supply to facilitate healthy diets;
- (c) the setting and application of nutrient criteria and dietary guidance;
- (d) the facilitation of social and other research to improve understanding of how label information is used and its impact on food selection, eating behaviours and the food supply;
- (e) the establishment of monitoring and surveillance systems for dietary/nutrition practices that include the use and understanding of food labels.

Such a policy should be developed as a priority, within the framework of the governments' preventative health agendas and cognisant of the present Australian initiatives on food security and a national food plan.

**Response:** Supports

**Timeframe for commencement:** <2 years

**Analysis:**

The review panel considered that food labels could be viewed as 'one arm of a comprehensive approach to tackling public health problems'<sup>13</sup> and that a comprehensive nutrition policy framework that articulated the role of food labelling in this context was lacking in Australia and New Zealand. The review panel describes the public health role of food labels as facilitating healthy eating choices by consumers as well as encouraging food reformulation by industry.

**Comment:**

There is merit in considering the role of food labelling in supporting preventative health initiatives. However, in the context of a comprehensive nutrition policy, objectives related to food labelling would be only one aspect of a broader policy. Food labelling would not be the sole strategy for a preventative health initiative and, if food labelling is considered an appropriate strategy to address a preventative health issue, it should be one facet of a wider suite of initiatives. In developing a nutrition policy, consideration could be given to including an overarching framework for the role of food labelling in influencing public health. The FoFR acknowledges that the development of a nutrition policy has wider implications for public health policy and is a matter for consideration by Health Ministers.

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<sup>13</sup> *Labelling Logic*, p. 58

**Proposed action:**

The FoFR sought the advice of the Standing Council on Health (formerly the Australian Health Ministers' Conference). The Standing Council on Health supports the development of a comprehensive national nutrition policy and has referred the development of this policy to the Australian Health Ministers' Advisory Council (AHMAC). In the interim, it will be important to take account of current public health nutrition initiatives (e.g. the *National Health and Medical Research Council Dietary Guidelines*) and existing public health expert groups from which food regulators can seek advice when considering relevant food labelling regulation policy or standards work in the short to medium term. In the development of a nutrition policy for Australia, the expertise of food regulators and public health organisations will be engaged to inform the development of the overarching framework to ensure objectives are practical and achievable within the food regulatory system.

**Recommendation 10:** That the *Food Standards Australia New Zealand Act 1991* be amended to require Food Standards Australia New Zealand to 'have regard' to the comprehensive Nutrition Policy when developing or reviewing labelling standards.

**Response:** Supports in principle

**Timeframe for commencement:** Not applicable

**Analysis:**

This recommendation calls for an amendment to the FSANZ Act to recognise a specific policy (i.e. a nutrition policy – to be developed).

**Comment:**

The consideration of a new nutrition policy and any other high-level policies is an important component of the development of any standard. FSANZ is already required to give consideration to a range of relevant matters when developing and reviewing food standards, including policy guidance that has been issued to FSANZ from the then Ministerial Council. Giving specific recognition to a nutrition policy in the FSANZ Act is not necessary to achieve the purpose of the recommendation and has implications for all food standards (not just food labelling standards).

While the FoFR understands and supports the intent of this recommendation, the FoFR does not support the referencing of specific policies or Ministerial Policy Guidelines in the FSANZ Act.

**Proposed action:**

The FoFR notes the existing mechanisms that enable FSANZ to have reference to broader policy guidance, and that the purpose and scope of the proposed nutrition policy extends beyond the issues faced with the food regulatory system. The FoFR supports the intent of ensuring FSANZ has regard to specific policies, including to the nutrition policy (if developed) and will continue to use existing mechanisms to achieve this.

## Ingredient list and nutrition information panel

**Recommendation 11:** That industry develop in consultation with government, medical authorities and relevant consumer organisations a voluntary code of practice and education initiatives to enable consumers to quickly identify label information relating to additives, colourings and flavourings that are of agreed medical priority for sensitive consumers.

**Response:** Notes

**Timeframe for commencement:** As required

### Analysis:

It is recognised that some consumers seek specific information about particular additives, colourings and flavourings added to food products due to individual sensitivities. In this regard, the review panel recommended a self-regulatory approach led by industry to address this consumer need.

### Comment:

Safety assessments conducted by FSANZ on all additives and processing aids, including colourings and flavourings, are a key feature of the robustness of the current system. There are also readily available tools to assist consumers to identify which additives are present when the additive code is presented in the ingredients list in conjunction with either its food additive class name or specific name. In addition, many manufacturers provide information on ingredients on their website and contribute to the Food Manufacturing Database, which can be used by allergen sufferers as a guide to foods that address their concerns.

### Proposed action:

The FoFR will continue to monitor the need for further action and if the scientific evidence indicates that mandatory warning statements are required for particular additives then these will be addressed through FSANZ's ongoing risk assessment processes and appropriate regulation will be introduced.

**Recommendation 12:** That where sugars, fats or vegetable oils are added as separate ingredients in a food, the terms 'added sugars' and 'added fats' and/or 'added vegetable oils' be used in the ingredient list as the generic term, followed by a bracketed list (e.g., added sugars (fructose, glucose syrup, honey), added fats (palm oil, milk fat) or added vegetable oils (sunflower oil, palm oil)).

**Recommendation 13:** That mandatory declaration of all trans fatty acids above an agreed threshold be introduced in the Nutrition Information Panel if manufactured trans fatty acids have not been phased out of the food supply by January 2013.

**Recommendation 14:** That declaration of total and naturally occurring fibre content be considered as a mandatory requirement in the Nutrition Information Panel.

**Response:** Notes and refers to FSANZ for technical evaluation and advice

**Timeframe for commencement:** < 2 years

**Analysis:**

Recognising that some consumers want to know more detail than others about specific ingredients on food labels, the review panel recommended a number of changes to the way that added sugars, added fats and added vegetable oils are declared, as well as recommending modifications to the Nutrition Information Panel.

**Comment:**

Food labelling should be clear, comprehensible and effective in communicating information to protect public health and safety and support healthy food choices for consumers. These recommendations propose changes to labelling requirements that are very technical in nature and, as such, require further work to fully investigate and characterise the issues involved.

It is recognised that industry has already achieved a significant reduction in trans fatty acids and that the level of trans fatty acids in the Australian diet is well below the at-risk level. On the basis of this it is not clear that a deadline is actually required for a complete phase out.

In relation to the declaration of fibre content in the Nutrition Information Panel, as is proposed in recommendation 14, it is noted that some industry stakeholders have raised concerns about the scientific basis and technical feasibility of distinguishing between naturally occurring fibre and other fibre on the food label.

**Proposed action:**

The FoFR will request FSANZ to undertake a technical evaluation and provide advice on the proposed changes to the ingredient listing and Nutrition Information Panel. Advice from FSANZ will assist the FoFR to fully consider the expected benefits and cumulative impacts of possible changes to labelling requirements prior to considering any amendments to the Food Standards Code.

**Recommendation 15:** That voluntary declaration of potassium content in the Nutrition Information Panel be actively considered by industry. If nutritional policy guidance recommends the reduction in consumption of potassium for at-risk population groups in the future, disclosure of potassium in the Nutrition Information Panel should become mandatory.

**Response:** Supports in part

**Timeframe for commencement:** < 2 years

**Analysis:**

This recommendation aims to provide food label information to assist those consumers who require a diet low in potassium to identify suitable foods easily.

**Comment:**

A small number of people require a diet low in potassium for medical reasons. Currently, where a claim is made about the salt or sodium content of a food, both the sodium and potassium content must be declared in the Nutrition Information Panel. However, there is currently no explicit

permission in the Food Standards Code for the voluntary declaration of the potassium content of food in the Nutrition Information Panel, which would be classed as a nutrition content claim. Nutrition content claims can only be made for those nutrients listed in the schedule to *Standard 1.1.1: Preliminary Provisions – Application, Interpretation and General Prohibitions*. Potassium is not one of the listed nutrients. Voluntary declaration is also made problematic by the lack of a recommended daily intake (RDI) for potassium. The issue of voluntary declaration of nutrients in the Nutrition Information Panel is being addressed by FSANZ as part of the development of a nutrition, health and related claims standard.

**Proposed action:**

The FoFR notes that the issue of voluntary declaration of potassium will be addressed by FSANZ in its recommendations on the draft nutrition, health and related claims standard, and supports the development of voluntary labelling provisions.

**Recommendation 16:** That social research be undertaken to determine effective mechanisms to present sodium/salt information on food labels to facilitate consumers’ understanding and use of this information.

**Response:** Supports in principle

**Timeframe for commencement:** 2–5 years

**Analysis:**

The review panel reported that many consumers are unaware of the relationship between sodium, salt and health and do not differentiate between the terms ‘salt’ and ‘sodium’. This recommendation aims to improve the information on the food label about displaying this information, and about how to use the information when making healthier food choices.

**Comment:**

Food labels already provide consumers with information about both sodium and salt content, noting that the terms are not interchangeable. The Food Standards Code requires that the quantity of sodium (a constituent of salt) in a food product be declared in the Nutrition Information Panel. When present as an ingredient in a food, salt must be listed in the statement of ingredients on the food label.

Social research undertaken in Australia and New Zealand in recent years confirms that many consumers are unaware of the relationship between sodium, salt and health and do not differentiate between the terms. An initial analysis of results from a study of five countries by the World Health Organization (WHO) Regional Office for the Americas demonstrated similar results.

In terms of consumers’ knowledge of appropriate levels of salt/sodium in the diet, this is largely a matter for broader consumer awareness strategies. Public health nutrition messages have traditionally focused on added ‘salt’ in encouraging consumers to reduce their dietary intake of sodium. In Australia and New Zealand a number of initiatives are underway to address population

intakes of sodium and other nutrients associated with diet-related conditions, including food reformulation programs and population surveys.

**Proposed action:**

The FoFR supports the aim of food labels in assisting consumers to make more healthy food choices. Taking into consideration the growing body of research from Australia and New Zealand, and internationally, the FoFR will review the existing evidence prior to undertaking additional primary research in this area.

**Recommendation 17:** That the declaration in the Nutrition Information Panel of amount of nutrients per serve be no longer mandatory unless daily intake claim is made.

**Response:** Supports

**Timeframe for commencement:** < 2 years

**Analysis:**

This recommendation acknowledges that food labels are a finite space for providing information to consumers and this measure aims to simplify the requirements for the mandatory Nutrition Information Panel and reduce the regulatory burden on industry in this regard.

**Comment:**

The effect of adopting this recommendation proposes a change to labelling requirements for the Nutrition Information Panel in the Food Standards Code. All proposed changes to the Food *Standards Code* are required to adhere to an agreed process and be assessed by FSANZ.

**Proposed action:**

The FoFR will request FSANZ to raise a proposal to provide assessment and advice on this proposed change to the labelling requirements for the Nutrition Information Panel.

**Recommendation 18:** That declaration of energy content of standardised food items on the menu/menu boards or in close proximity to the food display or menu be mandatory in chain food service outlets and on vending machines. Further, information equivalent to that provided by the Nutrition Information Panel should be available in a readily accessible form in chain food service outlets.

**Response:** Notes

**Timeframe for commencement:** Pending evaluation of existing initiatives

**Analysis:**

The review panel proposed a broader coverage of food labelling laws to reflect the range of environments within which people now purchase their foods and the significant extent to which Australians and New Zealanders now consume food outside the home.

**Comment:**

The then Ministerial Council agreed in December 2010 that Australians should have the opportunity when purchasing food from chain fast-food outlets to know more about its nutritional content and that a national approach should guide the display of nutrition information in these outlets.

Substantial work has been completed in relation to disclosure of point-of-sale nutrition information in standard food outlets, with a number of jurisdictions at various stages of developing, investigating and/or implementing requirements of this type.

A set of principles has been developed by the FRSC to help jurisdictions choosing to implement point-of-sale nutrition information disclosure requirements to do so in a nationally consistent manner. This work was endorsed by the then Ministerial Council and has been publicly released. It is being achieved outside the Food Standards Code and, as such, there is no short-term requirement to amend the code for this purpose. To further facilitate a nationally consistent approach to implementation, an implementation working group has been established.

**Proposed action:**

The FoFR is supportive of the initiatives currently being implemented and will consider the evaluation of these initiatives prior to considering regulatory measures of this nature being adopted through the Food Standards Code.

**Nutrition, health and related claims**

**Recommendation 19:** That a responsive regulatory approach to the use of simple words and terms that may infer health implications be commenced, with the food industry working with Food Standards Australia New Zealand to develop a Code of Practice covering consistent use of definitions for such words and terms, with a view to their use being restricted if appropriate constraint is not implemented.

**Response:** Supports

**Timeframe for commencement:** As appropriate

**Analysis:**

The aim of this recommendation is to ensure that the use of words on food labels that may imply health benefits does not undermine consumers' trust in the overall regulation of health-related claims.

**Comment:**

Consumer protection laws are in place to ensure that information on food products is truthful and not misleading. The ACCC and the NZCC have developed industry guidelines including interpretive definitions that help industry to comply with these laws.

The AFGC has also taken the initiative and developed the *Code of Practice for Food Labelling and Promotion*. A new section to the code of practice will provide industry guidance on the use of terms such as 'pure', 'fresh', 'light' and 'natural' and is currently under development.

**Proposed action:**

The FoFR supports the current responsive regulatory approach when issues are identified and encourages continued industry initiatives such as codes of practice with the added consumer protection provided under the Australian *Competition and Consumer Act 2010* (CCA) and the New Zealand *Fair Trading Act 1986*.

**Recommendation 20:** That the Standard for nutrition, health and related claims on food labels which reflects agreed public health goals be finalised and that it include the following:

- (a) a hierarchy of substantiation of claims at the various levels, that would encompass use of defined nutrition words and terms, pre-approved relationships, authoritative sources, systematic review and pre-market assessment and approval;
- (b) a requirement that all foods that carry a nutrition, health and related claim comply with an agreed nutrient profiling system;
- (c) a requirement that the presence of a nutrition, health and related claim triggers relevant information disclosures in the Nutrition Information Panel or ingredients list; and
- (d) a requirement that the presence of a general or high level claim triggers display of standardised front-of-pack label information.

**Response:** Supports finalisation of the health claims standard

**Timeframe for commencement:** < 2 years

**Analysis:**

The review panel noted that a standard for nutrition, health and related claims was currently under development by FSANZ, which would allow only suitably nutritious foods being able to make substantiated claims related to health. This would ensure that any claims made about a food product are not inappropriate or misleading when considered in the context of the overall nutrition of the food.

**Comment:**

Since the release of *Labelling Logic*, significant work had been undertaken by FSANZ to develop the draft standard. As part of that work, agreed nutrient profiling criteria may be one tool to enable manufacturers to show that foods upon which health claims are made are suitably nutritious, but other tools may also be appropriate for demonstrating compliance.

The FoFR is supportive of a standard for nutrition, health and related claims being finalised in keeping with the principles of the *Ministerial Policy Guideline on Nutrition, Health and Related Claims*, which aims to ensure that the health and safety of the public is protected while still allowing for food industry innovation and trade.<sup>14</sup>

**Proposed action:**

The FoFR notes the extensive consultation process and input from industry and development work completed by FSANZ on the draft standard for nutrition, health and related claims. The FoFR

<sup>14</sup> Department of Health and Ageing, accessed 26/09/11, <[www.health.gov.au/internet/main/publishing.nsf/Content/foodsecretariat-policy-guidelines#10](http://www.health.gov.au/internet/main/publishing.nsf/Content/foodsecretariat-policy-guidelines#10)>

supports further consultation to enable the finalisation of the draft standard and will request FSANZ to provide background information and a rationale on its consideration of the relevant issues, particularly those related to 20 (a) and 20 (b) to the FoFR for consideration. The FoFR will respond to these issues and the approach taken in the draft standard at this time, as well as ensure a comprehensive implementation strategy including guidance material is developed to assist the food industry to understand and comply with the new standard.

In relation to the proposed requirement that the presence of a general or high-level claim triggers display of standardised front-of-pack labelling, the FoFR will further consider this recommendation following a decision on front-of-pack labelling (refer section 6, recommendation 50).

**Recommendation 21:** That applications for trade names and trademarks be scrutinised by the relevant agencies to identify and reject words and devices that have the effect of inferring health implications that are otherwise prohibited under the Food Standards Code.

**Response:** Supports in principle

**Timeframe for commencement:** 2–5 years

**Analysis:**

This recommendation recognises the need to prevent the subversion of the proposed health claims regulatory system by unscrupulous use of trade names and trademarks that could imply claims prohibited in the Food Standards Code.

**Comment:**

Under the uniform food laws in each jurisdiction, the use of trade names or trademarks, including devices and brand identifiers, cannot be used as a means to make claims about food that would otherwise not be allowed under the Food Standards Code. This position is irrespective of the position on recommendation 20 relating to health claims.

The current law already seeks to achieve the object of this recommendation as it currently provides that an application for the registration of a trademark must be rejected if the use of the trademark in relation to particular goods or services would be either contrary to law or likely to deceive or cause confusion.

**Proposed action:**

The FoFR will request the FRSC to investigate and report on the scope of trademark law and provisions of the Food Standards Code, with a view to suggesting improvements in the manner in which food and trademark regulators work together to ensure that problematic trademarks as they relate to food are identified prior to their being registered.

**Recommendation 22:** That mandatory messages supporting preventative health strategies may be instigated by governments, provided the following conditions are met:

- (a) substantiation requirements are fulfilled — the epidemiological evidence is strong;
- (b) the message is consistent with the comprehensive Nutrition Policy;
- (c) food labelling is an appropriate response to the problem; and
- (d) the label is one part of a multifaceted campaign.

**Response:** Supports in principle

**Timeframe for commencement:** Not applicable

**Analysis:**

The review panel proposed that governments may wish to instigate mandatory messages that support preventative health strategies but recognised that such messages would need to be sustained by a comprehensive nutrition policy or national health guidelines, and meet other requirements.

**Comment:**

Governments already have the power to mandate statements on food labels, including statements supporting preventative health strategies. The FoFR acknowledges the broader health policy implications of instigating mandatory preventative health messages on food labels and has sought the advice of the Standing Council on Health.

**Proposed action:**

The Standing Council on Health has advised that the majority of Health Ministers support mandatory preventive health messages on food labels being instigated by government. However, some Health Ministers would prefer to address health messages on labels in the context of specific proposals rather than through a generic approach. Food Ministers consider that the recommendation provides useful criteria by which to consider a possible labelling response as a component of a multifaceted preventative health strategy.

**Recommendation 23:** That a consistent, seamless regulatory approach for nutrition, health and related claims be adopted for food, complementary medicines and dietary supplements.

**Response:** Supports in principle

**Timeframe for commencement:** 2–5 years

**Analysis:**

The review panel also noted that the introduction of health claims in the food regulatory regime will have implications for the consistency of regulatory approaches for food, complementary medicines and dietary supplements.

**Comment:**

There is some legislative overlap between foods and medicines for human oral consumption, which makes it difficult to determine which legislation should be applied in some cases. This

confusion can result in manufacturers seeking to position their product within the legislative framework that provides them with the maximum benefit.

A seamless regulatory approach that would provide clarity to regulators and industry as to how products that could be regulated under either food legislation or therapeutic goods legislation may be categorised is a desirable goal. However, recommendation 23 goes further than this and says that the regulation of claims on all food, complementary medicine and dietary supplements should be consistent. A consistent regulatory framework for food, complementary medicines and dietary supplements would need to be developed with flexibility to account for the inherent differences between foods, complementary medicines and dietary supplements, including their intended purpose, presentation and usage.

There is current work underway that will alleviate some of these issues: FSANZ is developing a standard for nutrition, health and related claims; a joint food–therapeutics working group comprising representatives from the jurisdictions, the Therapeutic Goods Administration, FSANZ and the Department of Health and Ageing is focusing on the food–medicine interface and identifying where the gaps and inconsistencies lie with a view to addressing issues and inconsistencies in regulation, monitoring and enforcement; and in 2011 the establishment of the Australia New Zealand Therapeutics Products Agency was announced.

**Proposed action:**

The FoFR will actively seek ongoing advice and feedback on the work currently being undertaken to identify and address some of these issues. The FoFR considers these useful first steps and will use the feedback as guidance in monitoring whether the issues identified by *Labelling Logic* are being adequately addressed.

## Alcohol

**Recommendation 24:** That generic alcohol warning messages be placed on alcohol labels but only as an element of a comprehensive multifaceted national campaign targeting the public health problems of alcohol in society.

**Response:** Notes

**Timeframe for commencement:** Pending advice

**Analysis:**

Alcohol is legally defined as a food but is also considered a drug. *Labelling Logic* puts forward the argument that consumers should be provided with information about the health consequences of consuming excessive amounts of alcohol, as they are about consuming excessive amounts of caffeine or some other food substances. Alcohol consumption has been linked to cardiovascular disease, cancers, injury and crime. Given these risks and the related social and health costs, the review panel recommended the mandating of suitably worded warning messages about the general health risks of consuming alcohol.

**Comment:**

In Australia the alcohol policy framework for action on alcohol (the *National Drug Strategy 2010–2015* and the *National Alcohol Strategy 2006–2011*) does not currently include mandatory warning labels, although there are some industry initiatives including education campaigns and voluntary labelling. The National Health and Medical Research Council's (NHMRC) *Australian Guidelines to Reduce Health Risks from Drinking Alcohol* also provide guidance and advice on the health implications of consuming alcohol.

In Australia, DrinkWise Australia, working in collaboration with its producer members (who represent 80% of the alcohol sold in Australia by volume) has developed a series of consumer information messages that can be displayed on alcohol products and packaging. There are four messages available to voluntarily adopt – a core message encouraging consumers to 'Get the facts' from the DrinkWise website and three other messages: 'Kids and alcohol don't mix'; 'Is your drinking harming yourself or others?'; and 'It is safest not to drink while pregnant' (or a pictogram). The label messages will be supported by a retail point-of-sale campaign, with educational materials provided to consumers in outlets where alcohol is purchased.

In New Zealand there are some industry initiatives underway in relation to introducing health and pregnancy warning labels on alcohol beverage containers. The Alcohol Advisory Council of New Zealand (ALAC) also runs public awareness campaigns about the harmful consequences of excessive alcohol consumption.

Any decision to introduce mandatory health warning messages on the labels of alcoholic beverages must be made in the context of existing measures by governments to inform consumers about the health risks of consuming alcohol and would need to consider international trade obligations and implications. The labelling measures proposed by the review panel have wider implications for public health policy and, to be effective, would need to be integrated with other public health strategies, including broad public education and awareness campaigns.

**Proposed action:**

The FoFR acknowledges recent industry initiatives to implement voluntary labelling schemes. The FoFR also acknowledges the broader health policy implications of instigating warning messages on alcohol labels and has sought the advice of the Standing Council on Health. Health Ministers will ask AHMAC to provide advice on the efficacy of generic alcohol warnings in relation to a comprehensive national campaign on the public health problems of alcohol.

**Recommendation 25:** 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, as support for ongoing broader community education.

**Response:** Notes

**Timeframe for commencement:** < 2 years

**Analysis:**

The review panel noted the impact of consuming alcohol while pregnant and fetal alcohol spectrum disorders, which are the most common cause of non-hereditary mental retardation in Australia. The recommendation relates to mandated warning messages on alcohol labels, as well as support for ongoing broader community education.

**Comment:**

As noted in recommendation 24, the alcohol policy framework for action on alcohol in Australia does not currently include mandatory warning labels; however, initiatives including education campaigns and voluntary labelling is being implemented by industry. The NHMRC *Australian Guidelines to Reduce Health Risks from Drinking Alcohol* also provide guidance and advice on the health implications of consuming alcohol.

As noted in recommendation 24, DrinkWise Australia and its producer members have introduced voluntary messages on alcohol products and packaging including a message about the risks of consuming alcohol while pregnant: 'It is safest not to drink while pregnant' or, alternatively, a pictogram.

As mentioned, in New Zealand, ALAC runs public awareness campaigns about the harmful consequences of excessive alcohol consumption. The Ministry of Health provides information about the harmful effects of drinking during pregnancy and advises that there is no known safe level of alcohol use at any stage of pregnancy. In 2006 the ALAC made an application to FSANZ to require that alcoholic beverages have a health advisory label advising of the risks of consuming alcohol when planning to become pregnant and during pregnancy. This application was placed on hold, pending the outcome of the Review of Food Labelling Law and Policy.

Research has indicated that labelling, as part of a package of measures, may help to reduce alcohol-related harm, but not labelling alone. There are some countries such as France and the United States that currently have labelling of this nature.

Mandatory changes to alcohol labels to include warnings will need to consider regulatory cost on businesses, international trade obligations and monitoring and enforcement of any labelling requirements in retail outlets, as well as in clubs, pubs and bars.

To be effective, any decision to introduce mandatory health warning messages on the labels of alcoholic beverages must also be made in the context of existing measures by governments. The labelling measures proposed by the review panel have wider implications for public health policy and would need to be integrated with other public health strategies, including broad public education and awareness campaigns.

**Proposed action:**

The FoFR acknowledges recent industry initiatives to implement voluntary labelling schemes and the ALAC application currently before FSANZ. The FoFR also acknowledges the broader health policy implications of instigating mandatory warning messages on alcohol labels about the risks of consuming alcohol while pregnant, and has sought the advice of the Standing Council on Health. The Standing Council on Health has advised that pursuing warnings about the risks of consuming

alcohol while pregnant is prudent but, noting the voluntary steps industry has already taken in this area, has suggested that industry should be allowed a period of two years to adopt voluntary initiatives before regulating for this change.

**Recommendation 26:** That energy content be displayed on the labels of all alcoholic beverages, consistent with the requirements for other food products.

**Response:** Supports in principle, requires further research

**Timeframe for commencement:** < 2 years

**Analysis:**

The review panel considered that the declaration of the energy content (kilojoules) on the label of alcoholic beverages would help consumers make informed choices between alcoholic beverages, non-alcoholic beverages and other foods, based on energy content. It may assist with product choices based on personal preference in relation to health and/or weight management. Additionally, requiring the declaration of energy content on the label of alcoholic beverages would more closely align this class of food with other food commodities already required to declare energy content in the Nutrition Information Panel.

**Comment:**

Alcoholic beverages are currently exempt from nutrition labelling by the Food Standards Code. Alcohol is an energy-dense and nutrient-poor food and may contribute to a significant proportion of an individual's total daily energy intake. Alcohol consumption may therefore be a contributing factor to overweight and obesity.

It is acknowledged that the implementation of this recommendation may bring associated costs for industry and have potential international trade implications; these would need to be fully assessed.

It is also noted that concerns have been raised about the labelling of energy content on alcoholic beverages having an adverse effect on young people's (particularly women's) eating and drinking behaviour, that is, skipping meals to reduce energy intake to allow for alcohol intake.

**Proposed action:**

The FoFR will request FSANZ to undertake further research, including discussions with industry, and complete a cost-benefit analysis to assess the full impact of implementing this recommendation. The FoFR will consider the advice provided by FSANZ before a further decision is made.

**Recommendation 27:** That drinks that are mixtures of alcohol and other beverages comply with all general nutrition labelling requirements, including disclosure of a mandatory Nutrition Information Panel.

**Response:** Agrees not to pursue

**Timeframe for commencement:** Not applicable

**Analysis:**

This recommendation aims to help consumers to make nutritional comparisons between drinks that are mixtures of alcohol and other beverages ('mixed alcoholic beverages') and other foods. More specifically, information on the Nutrition Information Panel would provide a comparison between different brands/varieties of 'mixed alcoholic beverages', enabling consumers to choose products lower in sugar and energy.

**Comment:**

If adopted, this recommendation would require a Nutrition Information Panel on the label of 'mixed alcoholic beverages'. It does not seek to extend full nutrition labelling to other alcoholic beverages such as wine, beer and straight spirits.

While packaged pre-mixers (i.e. colas, flavoured water-based drinks and juices) are required to be labelled with a Nutrition Information Panel by the Food Standards Code, alcoholic beverages, including 'mixed alcoholic beverages', are exempt from this requirement. However, requiring a Nutrition Information Panel on 'mixed alcoholic beverages' and not all packaged alcoholic beverages would create labelling inconsistency within a similar class of food.

There may also be potential unintended health consequences resulting from requiring a Nutrition Information Panel on 'mixed alcoholic beverages'. For example, alcohol is low in certain nutrients of public health concern, like salt and fat, and therefore may be perceived by some consumers as a healthier choice when compared with other foods and beverages that are higher in these nutrients. It could also see beverage manufacturers develop a wider range of lower sugar products, resulting in alcohol products being marketed in a more positive nutritional light.

**Proposed action:**

The FoFR has agreed not to pursue this recommendation due to the potential unintended health consequences resulting from requiring a Nutrition Information Panel on 'mixed alcoholic beverages', as well as international trade considerations and costs to industry associated with implementing a Nutrition Information Panel on 'mixed alcoholic beverages'.

## 4. New technologies

The review panel considered new technologies as a distinct category of issues that require a distinct labelling response. It recognised that we are likely to see many more new technologies used in food production in the near future. The review panel felt that there is much to be said for developing an overarching policy that ensures a consistent approach to the labelling of all foods derived using new technologies.

The review panel was careful to confine its recommendations to those new technologies that meet two criteria, namely those where ‘their proposed use in the food production chain automatically triggers a pre-market safety assessment of the foods or ingredients produced or treated through the use of such technologies...and [have] in any way transformed the nature of the food’.<sup>15</sup>

The review panel noted that concerns over new technologies are primarily focused on biotechnology and, to a lesser extent, nanotechnology and irradiation. Currently both genetically modified and irradiated foods are subject to mandatory labelling.

### Overall approach

**Recommendation 28:** That as a general principle all foods or ingredients that have been processed by new technologies (i.e., all technologies that trigger pre-market food safety assessments) be required to be labelled for 30 years from the time of their introduction into the human food chain; the application of this principle to be based on scientific evidence of direct impact on, or modification of, the food/ingredient to be consumed. At the expiry of that period the mandatory labelling should be reviewed.

**Response:** Agrees not to pursue

**Timeframe for commencement:** Not applicable

#### Analysis:

The review panel recognised that foods produced using or treated by new technologies have been and will be subject to stringent safety assessments based on robust science that has been peer reviewed. However, the review panel also recognised that, despite this, there is a lower level of consumer confidence in new technologies. It was accepted that consumer confidence builds over time and therefore the review panel was of the view that these foods should be subject to mandatory labelling until they have been involved in the human food supply chain for a generation’s experience of 30 years. During this time the labelling should be subject to regular monitoring. After 30 years the mandatory requirement would then be reviewed, with the accumulated experience of a generation.

The review panel forecasted increasing challenges to regulators in assessing risks to public health and safety as a result of further technological innovations in food production and, on this basis,

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<sup>15</sup> *Labelling Logic*, p. 90

felt that a distinctive consistent labelling protocol with regard to new technologies would be preferable to the current case-by-case approach.

**Comment:**

The principled and systematic approach proposed by the review panel recognises that some consumers are uneasy about the safety implications of new technologies. The review panel also acknowledges that these concerns are likely to dissipate over time. However, the FoFR notes that mandatory labelling would place a significant cost burden on industry, may be trade-restrictive, and may inhibit investment in new technologies. The FoFR takes the view that the intent of the recommendation can be achieved by a more flexible and/or less burdensome approach.

The FoFR recognises the linkages with the review panel's proposed conceptual framework and issues hierarchy, and therefore its response to this recommendation is consistent with its response to recommendation 2 (refer to section 2).

**Proposed action:**

The FoFR agrees not to pursue recommendation 28 but instead considers that it is appropriate for FSANZ to continue to apply a case-by-case approach to the labelling requirements for new technologies.

The FoFR has undertaken to develop a conceptual framework and issues hierarchy that will include a Ministerial Policy Guideline for the case-by-case consideration of regulatory (i.e. labelling) and non-regulatory measures applying to food produced using a new technology requiring pre-market safety assessment (refer to section 2, recommendation 2).

Consistent with this approach, the FoFR supports the principle of considering the specific circumstances relating to foods produced or processed using new technologies. This must take place on a case-by-case basis, as foods produced by new technologies will be associated with different risk profiles and different consumer interests. The Ministerial Policy Guideline will underpin the case-by-case consideration of food produced using the new technology (rather than the new technology itself). It will also set out the expectation that FSANZ will pay particular attention to assessing the need for the application of additional tools following a pre-market safety assessment of foods produced or processed using new technologies.

In some cases, while the assessment of all available evidence indicates the safety of a food produced or processed using a particular new technology, the lack of historical data regarding human consumption may warrant the application of additional tools such as education, monitoring or labelling. This judgement should take into account, among other things, the extent of precautions that need to be taken in using the technology and consumer understanding of and confidence in the technology. The Ministerial Policy Guideline will highlight the importance of consumer values issues as part of the consideration and also set out that a proposal from FSANZ for mandatory labelling of food produced using new technology will be subject to automatic sunset after a defined period.

The proposal for a mandatory labelling requirement for new technologies constitutes a technical regulation under the *World Trade Organization Agreement on Technical Barriers to Trade* (TBT

Agreement). A case-by-case approach will ensure food regulation under the Food Standards Code is consistent with our obligations under the TBT Agreement.

## Labelling of GM foods

**Recommendation 29:** That only foods or ingredients that have altered characteristics or contain detectable novel DNA or protein be required to declare the presence of genetically modified material on the label.

**Response:** Supports

**Timeframe for commencement:** Not applicable

### Analysis:

The review panel's proposal is consistent with the current provisions in the Food Standards Code. The current provisions include the exemption for flavours, and the threshold for unintentional presence (i.e. 1%).

### Comment:

The Food Standards Code mandates pre-market approval of genetically modified (GM) food, including a pre-market safety assessment by FSANZ. The Food Standards Code also requires mandatory labelling of GM food, including ingredients, food additives and processing aids as 'genetically modified', if novel DNA and/or novel protein from an approved GM variety is present in the final food or the food has altered characteristics as set out in *Standard 1.5.2: Food Produced Using Gene Technology*. Unpackaged food for retail sale must have the statement 'genetically modified' on or in connection with the display of the food.

Regulatory and resourcing impacts on industry and government are likely to be minimal by continuing this requirement.

### Proposed action:

The FoFR considers that the existing provisions are appropriate and supports the continuation of the standard.

**Recommendation 30:** That any detection of an adventitious genetically modified event be followed by a period of monitoring and testing of that food or ingredient.

**Response:** Agrees not to pursue at this time

**Timeframe for commencement:** Not applicable

### Analysis:

Currently, a 10 g/kg (1%) permissible unintended GM content threshold in the Food Standards Code acknowledges that a small amount of cross-over between bulk food consignments could reasonably be expected to occur. The review panel's concern was to ensure that the unintentional presence rules are not used as a de facto threshold to cover events that result from poor systems rather than being purely adventitious.

**Comment:**

The (1%) permissible unintended GM content threshold under the Food Standards Code is consistent with international standards. In addition, there is currently zero tolerance for the presence of an unapproved GM food in the food supply, even if it is unintentional.

Adventitious presence can be minimised but is difficult to eliminate entirely, and compliance surveys have found businesses surveyed had systems in place to ensure compliance through their own quality control processes.

There is existing work being undertaken by the jurisdictions to enhance consistent monitoring of GM foods through the ISC's *National Compliance and Monitoring Strategy for Genetically Modified Foods*. FSANZ also undertakes monitoring and surveillance in routine and specialised surveys.

**Proposed action:**

The FoFR is satisfied that current monitoring and strategies identify compliance issues. The industry is responsive when issues are raised and, given the potential additional significant resources required and in the absence of evidence that industry is misusing the unintended content threshold, existing monitoring and testing should not be expanded on at this time.

**Recommendation 31:** That foods or ingredients with flavours containing detectable novel DNA or protein not be exempt from the requirements to declare the presence of genetically modified material on the label.

**Response:** Agrees not to pursue at this time

**Timeframe for commencement:** Not applicable

**Analysis:**

Flavours are at present excluded from the genetic modification labelling requirements if they are present in the food or ingredients in a concentration of no more than 1 gram per kilogram. The review panel considered a more consistent approach was appropriate, and recommended that this exemption be removed.

**Comment:**

Flavours are used in very small amounts, as highly purified or synthesised substances, with the presence of GM material being negligible. In May 2000, the then Ministerial Council's Sub-Committee on GM Food Labelling recommended that, where the amount of flavour added to food is 0.1% or less (determined on the basis of in-going weight), no GM labelling of the flavour should be required.

If negligible (0.1%) amounts of genetic modification is present in foods due to flavours that have already been found to be safe in pre-market assessments, there could potentially be substantial regulatory burden and compliance costs to industry with no associated health and safety benefit in requiring additional labelling. It could also raise issues around Australia and New Zealand's

consistency with the TBT Agreement, which requires members to ensure that technical regulations (including labelling) are not more trade restrictive than necessary to fulfill a legitimate objective.

**Proposed action:**

The FoFR will continue to monitor advice from FSANZ and food regulatory agencies on issues relating to this matter, and agrees not to pursue additional regulatory requirements at this time.

**Recommendation 32:** That foods or ingredients that have been genetically modified and would require declaration if labelled be declared on menu/menu boards or in close proximity to the food display or menu in chain food service outlets and on vending machines.

**Response:** Agrees not to pursue at this time

**Timeframe for commencement:** Not applicable

**Analysis:**

In recommendation 18 the review panel recommended that the declaration of energy content of standardised food items on the menu/menu boards or in close proximity to the food display or menu be mandatory in chain food service outlets and on vending machines. The review panel also wanted consideration to be given to GM labelling in large food outlet chains and vending machines.

**Comment:**

FSANZ undertakes a pre-market safety assessment of all GM foods before a food is able to be sold. Foods consumed or packaged where they are sold are exempt from a number of labelling requirements that apply to pre-packaged foods. If these exemptions were reconsidered it would be necessary to prioritise the information that should be provided on a risk or preventative health basis.

While restaurants and food service outlets can choose to provide this type of information on request, it is not a requirement under the Food Standards Code. Additional regulation may create additional costs for industry and regulatory and enforcement agencies in monitoring and enforcing the requirement.

**Proposed action:**

The FoFR agrees that further consideration of introducing genetic modification labelling in large food outlets or vending machines is not pursued at this time.

**Recommendation 33:** That governments ensure effective monitoring of labelling requirements in the Food Standards Code relating to genetically modified foods or ingredients through support for sufficient Australian and New Zealand laboratories, observing world best practice protocols, and with the necessary resources and analytical skills.

**Response:** Does not support

**Timeframe for commencement:** Not applicable

**Analysis:**

The review panel felt it was important that requirements for testing be aligned with agreed international testing protocols and that Australia and New Zealand should aim to achieve world's best practice. It raised concerns about the ability for Australia and New Zealand to undertake this testing.

**Comment:**

Australia and New Zealand currently use a combination of domestic and overseas laboratories where necessary to undertake this type of testing. These laboratories use world's best practice protocols and this practice is considered the most cost-effective way for Australia and New Zealand to undertake this work.

The FoFR notes that the *National Compliance and Monitoring Strategy for Genetically Modified Foods*, agreed by all States and Territories, aims to enhance consistent compliance and monitoring of these foods. Monitoring and surveillance is also undertaken by FSANZ in routine and specialised surveys, for example, the survey of GM ingredients in soy-based infant formula in 2011.

**Proposed action:**

The FoFR proposes to continue existing practices in relation to the testing of GM foods and ingredients. The FoFR will continue to review advice on outcomes from these activities and identify and respond to issues if they arise.

## Irradiation and nanotechnology

**Recommendation 34:** That the requirement for mandatory labelling of irradiated food be reviewed.

**Response:** Supports

**Timeframe for commencement:** < 2 years

**Analysis:**

The review panel identified that foods treated with ionising radiation have been in the food supply for at least a generation (i.e. 30 years' experience) and there have been no problems for human health resulting from the consumption of foods treated with irradiation.

**Comment:**

There is a significant body of evidence demonstrating that food processed using irradiation is both safe and nutritionally adequate. Irradiation, as with many other new technologies, provides significant benefits for consumers in terms of improved food safety and quality. Irradiation also provides the food industry with a cost-effective approach to managing biosecurity threats and prolonging the shelf life of fresh produce. However, the uptake of irradiation in Australia and New Zealand, and therefore the realisation of these benefits, has been low.

It is timely that FSANZ review the need for mandatory labelling of irradiated food and assess whether there is a more effective approach to communicate the safety and benefits of irradiation to consumers. Improving consumer confidence in irradiation will reduce disincentives for increased uptake and broader application of the technology by industry. This review will not encompass a broader assessment of the requirement for irradiated food to be subject to a pre-market safety assessment.

Removal of the mandatory labelling requirement for irradiated food will not prevent the food industry from providing this information voluntarily to consumers. Evidence from other countries indicates that irradiation labelling is being used voluntarily to provide consumers with assurance of product safety and quality.

**Proposed action:**

The FoFR will request FSANZ to review *Standard 1.5.3: Irradiation of Food*, specifically with a view to assessing the need for the mandatory labelling requirement for all irradiated food to continue.

**Recommendation 35:** That Food Standards Australia New Zealand and other relevant bodies develop as a matter of urgency a standard for regulating the presence of nanotechnology in the food production chain, consistent with the recommendations in this Report relating to new technologies.

**Response:** Notes

**Timeframe for commencement:** Not applicable

**Analysis:**

The review panel states that the extent of use of nanomaterials in the Australian and New Zealand food supply appears to be minimal at this stage. This recommendation is designed to provide a solution for its expected increase in the future.

**Comment:**

The FoFR notes the limited use of nanotechnology in the food industry internationally and that there is currently no application of this technology to food in Australia and New Zealand. In relation to recommendation 2 and 28 (refer sections 2 and 4), the FoFR has agreed to consider labelling of new technologies on a case-by-case basis and proposes that this approach will cover the consideration of nanotechnology if it is used in food in the future.

The FoFR recognises that nanotechnology is a key enabling technology that can provide significant community benefits and growth opportunities for industry. The use of nanotechnology in the food supply chain should be regulated to ensure food safety. Such regulation should provide certainty to industry and allow industry to continue to innovate and develop new products.

**Proposed action:**

The FoFR notes the recommendation and will continue to actively monitor this issue, consistent with its response to recommendations 2 and 28 to consider the labelling of new technologies using a case-by-case approach.

## 5. Consumer values issues

The review panel recognised the growing consumer demand for information on food labels to guide food purchasing decisions that align with personal values and ethics. The review panel characterised these demands as consumer values issues.

In its conceptual framework (refer recommendation 2, section 2) the review panel found that regulatory actions in relation to consumer values issues should generally be initiated by industry.

### Industry-initiated approaches

**Recommendation 36:** That Food Standards Australia New Zealand consider adopting, by reference in the Food Standards Code, values-based definitions and/or standards relating to specific food production methods and processes, if requested by industry, to achieve consistency of definitions.

**Response:** Does not support

**Timeframe for commencement:** Not applicable

**Analysis:**

In its consideration of consumer values issues, the review panel gave particular consideration to commonly used claims and definitions relating to food production methods and processes (such as organic or halal). Concerns were raised about inconsistencies in relation to the use of terms and the underlying definitions of these terms, which can create confusion for consumers.

**Comment:**

The FoFR recognises that consistency of definitions, if related to food production methods and processes that may attract a price premium in the market, is essential for both consumer protection and fair competition. However, the FoFR does not agree that referencing values-based definitions and/or standards in the Food Standards Code is appropriate.

First, referencing a definition or standard in the Food Standards Code should only be taken where less prescriptive approaches have been tried and failed and where the benefits of regulation can be demonstrated to outweigh the costs. Second, in circumstances where a case for regulation could be made, the FoFR believes this should more appropriately be considered under the CCA, which includes a mechanism to declare a mandatory ‘information standard’ for goods of a specified kind.

**Proposed action:**

The FoFR does not support the adoption of value-based definitions for specific food production methods or processes into the Food Standards Code.

**Recommendation 37:** That the relevant livestock industries consider the benefit of establishing agreed standards under the auspices of Standards Australia or Standards New Zealand for terms related to animal husbandry (e.g., ‘free range’, ‘barn laid’ and ‘caged’ in the case of poultry).

**Response:** Notes

**Timeframe for commencements:** Not applicable

**Analysis:**

The review panel recognised that an agreed standard may be warranted in relation to claims about specific food production processes or methods. It noted that there is a lack of clarity around some terms such as ‘free range’ and ‘barn laid’.

**Comment:**

The FoFR notes that the Standards Australia and Standards New Zealand processes utilise broadly based stakeholder input, technical rigour and a consensus-based approach to develop agreed voluntary standards. These standards may be augmented by third-party certification or accreditation processes (where appropriate) to provide a robust self-regulatory regime.

The FoFR considers that these processes may be particularly useful where there are differing views within an industry, or with non-industry stakeholders, on key definitions or requirements.

As recommended by the review panel, the relevant industries are best placed to decide whether to apply to Standards Australia or Standards New Zealand to develop an agreed standard. Governments frequently contribute policy or technical expertise to these processes through membership of the standards development committees.

**Proposed action:**

The FoFR notes the recommendation and urges the relevant livestock industries to investigate and pursue an agreed voluntary standard if appropriate.

**Recommendation 38:** That the value of industry-initiated self-regulatory intervention be recognised and that industry in collaboration with special interest groups further develop and apply a responsive and more structured self-regulatory approach to consumer values issues that incorporates:

- (a) the role that voluntary codes of practice can play in relation to the evolution of standard definitions for values-based claims;
- (b) the role that certification schemes can play in effectively communicating values-based messages; and
- (c) the development of agreed standards through existing frameworks such as International Organization for Standardization, Standards Australia or Standards New Zealand.

**Response:** Supports

**Timeframe for commencement:** < 2 years

**Analysis:**

The review panel suggested there was a need to develop an approach to manage the food labelling response to the highly diverse range of consumer values issues such as the welfare of animals, religious beliefs, environmental issues, human rights and methods of production. The approach recommended by the review panel is detailed in the proposed conceptual framework and issues hierarchy (refer section 2, recommendation 2), with consumer values issues largely the role of self-regulatory measures initiated by industry.

**Comment:**

A number of industry sectors have already commenced work in this area, including on the development of voluntary codes of practice, certification regimes and voluntary standards. Consumer values are dynamic and likely to change significantly over relatively short periods of time. For this reason, a market-driven approach, as recommended by the review panel, is likely to be more responsive to consumer needs than a regulatory approach. However, this comes with an important caveat: there must be effective engagement with consumers and relevant special interest groups in formulating the self-regulatory approach. The FoFR therefore emphasises the need for industry to collaborate with special interest groups in this process, as recommended by the review panel.

**Proposed action:**

The FoFR supports industry-initiated activities and notes there may be opportunities for government to support or contribute to the development of this self-regulatory approach. In particular, government may be aware, through complaint mechanisms and other channels, of shortcomings in self-regulatory systems that may warrant attention.

The FoFR recognises that consumer values issues related to food fall within the remits of two additional COAG fora, namely the Primary Industries Standing Council and the Legislative and Governance Forum on Consumer Affairs. The FoFR will request that these fora consider recommendation 38 and provide advice on a way forward.

**Recommendation 39:** That a monitoring regime for self-regulatory measures be established and when evidence of systemic failure to provide accurate and consistent values-based information to enable consumers to make informed choices is found, a more prescriptive mode of regulation is triggered.

**Response:** Supports in part

**Timeframe for commencement:** < 2 years

**Analysis:**

The review panel acknowledged that information presented to consumers about food production methods (such as organic, free range and halal) can be effectively self-regulated by industry. However, the review panel believed that consideration needed to be given to the adequacy of the approach used to guide whether there is a need for more prescriptive forms of governance in the event of market failure.

**Comment:**

Industry already has some processes for monitoring self-regulatory measures and there continues to be a safety net for consumers in the event that self-regulatory regimes for labelling are inadequate through consumer protection agencies. Consumer protection agencies continue to be able to take action where misleading advertising has occurred in relation to claims that fall within the scope of ‘consumer values’. In addition, adequate complaints mechanisms are already in place and provide a means of identifying problem areas.

Market failure may exist but not warrant government action if the cost of intervention would outweigh the benefits. Government intervention is more likely to take the form of assisting or facilitating responsive industry self-regulation rather than developing new mandatory requirements.

**Proposed action:**

The FoFR agrees that, on balance, recognising the need for government to prioritise action, food regulatory agencies must continue to focus on issues of food safety and enforcement of food labelling requirements in the Food Standards Code.

The FoFR will work with agencies from the relevant COAG councils and fora – the Primary Industries Standing Council and the Legislative and Governance Forum on Consumer Affairs – to consider ways to improve transparent operation and reporting from these self-regulatory mechanisms on issues or failures as they relate to food labelling. This will provide a more informed basis for the FoFR and governments to become aware of systemic failures that may warrant government action.

## Government-mandated interventions

**Recommendation 40:** That Australia’s existing mandatory country-of-origin labelling requirements for food be maintained and be extended to cover all primary food products for retail sale.

**Response:** Notes

**Timeframe for commencement:** < 2 years

**Analysis:**

The review panel considered the current requirements for country-of-origin labelling (CoOL) anomalous for some food products and recommended that mandatory CoOL be extended to all primary food products.

**Comment:**

The aim of this recommendation was to promote consistency in the application of CoOL arrangements to all primary food products. The existing CoOL standard mandates CoOL on most packaged food, as well as unpackaged fruit, vegetables, pork and fish.

FSANZ is currently assessing a proposal that will (if agreed) largely implement this recommendation by extending CoOL requirements to unpackaged beef, veal, lamb, hogget,

mutton and chicken. The FSANZ assessment and approval processes will consider the impacts, including costs and benefits, of extending CoOL to these primary foods.

**Proposed action:**

The FoFR notes recommendation 40 and will request FSANZ to continue its existing process for the proposal to extend Australia's CoOL requirements to unpackaged beef, veal, lamb, hogget, mutton and chicken and to develop a further proposal to extend CoOL to all other primary food products.

**Recommendation 41:** Those mandatory requirements for country-of-origin labelling on all food products be provided for in a specific consumer product information standard for food under the *Competition and Consumer Act 2010* rather than in the Food Standards Code.

**Response:** Does not support

**Timeframe for commencement:** Not applicable

**Analysis:**

This recommendation calls for all CoOL requirements to be managed by a single regulatory framework. The review panel suggested moving the CoOL requirements for food from the Food Standards Code to the CCA. This aims to address current problems experienced by industry and consumers in understanding CoOL labelling as a result of provisions that sit under both food law and consumer law.

**Comment:**

To implement this recommendation would require removal of the CoOL standard from the Food Standards Code, the repealing of the *Ministerial Policy Guideline on CoOL* for food, and changes to the CCA and the newly developed legislative framework.

Australia and New Zealand currently have different CoOL arrangements in place. These differences will remain whether mandatory CoOL requirements remain in the Food Standards Code or are moved to the CCA. Moving CoOL requirements for food to the CCA will decrease the amount of legislation; however, there would still need to be more than one area that would address CoOL. Within Australia, CoOL requirements also apply to imports under the *Commerce (Trade Descriptions) Act 1905* and *Commerce (Imports) Regulations 1940*. These requirements are enforced by the Australian Customs and Border Protection Service.

If CoOL was moved to the CCA, it would be enforced by State and Territory consumer protection agencies. In order for consumers to understand where to lodge food-related complaints or access advice there would need to be clear agency protocols and communication strategies developed.

The CCA does not currently contain any mandatory requirements for suppliers to declare the origin of their products. The CCA contains 'safe harbour' provisions that require suppliers to satisfy certain requirements where they have chosen to make a CoOL claim, in order to avoid breaching the prohibitions in the CCA on false, misleading or deceptive conduct.

**Proposed action:**

The FoFR does not support proposed changes to the legislative framework for CoOL and proposes to maintain the current standard within the Food Standards Code.

**Recommendation 42:** That for foods bearing some form of Australian claim, a consumer-friendly, food-specific country-of-origin labelling framework, based primarily on the ingoing weight of the ingredients and components (excluding water), be developed.

**Response:** Does not support

**Timeframe for commencement:** < 2 years

**Analysis:**

In recognition of significant confusion among consumers and industry regarding Australian origin of ingredients claims (such as ‘Made in’, ‘Product of’ and ‘Grown in’), the review panel proposed a new framework to underpin such claims. This framework would be based on the ingoing weight of the ingredients and components (excluding water), as well as its place of manufacture.

**Comment:**

The food-specific CoOL framework proposed by the review panel aims to provide greater clarity about CoOL terminology by focusing on the origin of ingredients and components in foods. However, the proposed framework does not recognise the intent of ‘made in’ claims, which support the important contribution the manufacturing sector makes to the local economy (and community) by considering a range of inputs including raw materials (ingredients), packaging, labour and associated overhead costs. Depending on the type of claim used, the current regulatory framework gives recognition to the contribution of local production and manufacturing, as well as the origin of the ingredients and components of a food product.

There may be considerable costs to food businesses in complying with a CoOL scheme based on the ingoing weight of ingredients. Previous economic analysis suggests that this approach may have a negative impact on both food manufacturers and local suppliers, potentially decreasing the competitiveness of Australian food businesses and increasing the demand for imported foods.

**Proposed action:**

The FoFR continues to support the existing framework and definitions for Australian CoOL. However, in recognition of the confusion with terminology, the FoFR will request relevant consumer protection agencies to review existing CoOL materials (including publications, guidelines and other educational material) in a consultative process and, if appropriate, develop an education campaign with the specific objective of clarifying CoOL.

## 6. Presentation

The review panel considered that the effectiveness of its recommendations in practice will depend on the consumer's ability to notice, read and comprehend the information provided on food labels. The recommendations in this section, as a suite, are intended to improve the effectiveness of labelling in communicating important information relating to food safety and nutrition information.

**Recommendation 43:** That the Perceptible Information Principle be used as a guide for labelling presentation to maximise label comprehension among a wide range of consumers.

**Response:** Notes and refers to FSANZ for technical evaluation and advice

**Timeframe for commencement:** < 2 years

### **Analysis:**

The principles and criteria that framed the review panel's work resulted in recommendations to ensure all relevant information is presented to enhance consumer comprehension. The review panel recommended that the Perceptible Information Principle developed by the Centre for Universal Design is used as a guide for labelling presentation to maximise consumers' comprehension of information on food labels.

### **Comment:**

The principles of Universal Design are not specific to food or food labels and the Perceptible Information Principle includes elements that are not relevant for food labels.

Further work is required to explore how the Perceptible Information Principle, which has various applications in design more broadly, could be used in the context of food labelling regulation. In addition, research may indicate if there are other tools that may be more relevant for the Australian and New Zealand environment.

### **Proposed action:**

The FoFR notes recommendation 43 and will request FSANZ to undertake a technical evaluation and provide advice on the application of the Perceptible Information Principle to the presentational aspects of food labels, as well as whether the Perceptible Information Principle as a tool to aid food label design has benefits over other tools.

**Recommendation 44:** That a minimum font size of 3.5 mm in an open font style in mixed case be applied for mandated information, with the exception of small package sizes where the minimum font size should be 1.5 mm.

**Recommendation 46:** That a minimum contrast level of 70% for mandated information be stipulated in the Food Standards Code.

**Response:** Agrees not to pursue at this time

**Timeframe for commencement:** Not applicable

**Analysis:**

The United States, United Kingdom and Canada stipulate a minimum font size for food labels to provide a consistent approach to readability, based on appropriate font size for the greatest number of people. In addition to recommending a similar mandatory approach in Australia, the review panel also suggested a mandatory approach for tonal contrast to preclude particular combinations of foreground and background colours.

**Comment:**

Legibility outcomes are already in the Food Standards Code therefore any mandatory changes would require an amendment to the Food Standards Code. In addition, highly prescriptive requirements may place considerable design limitations on industry, and may lead to an information density that reduces readability for consumers.

The FoFR supports clear and comprehensible labelling and notes that FSANZ already provides a user guide to assist industry in meeting the requirements set out in the Food Standards Code with respect to readability and legibility in *Standard 1.2.9: Legibility Requirements*.

The FoFR is also mindful of the burden that would be imposed on industry from implementing the prescriptive labelling requirements proposed in recommendations 44 and 46. The FoFR considers that the costs to industry may significantly outweigh the potential benefits of amending the Food Standards Code to include a mandatory font size of 3.5 mm and a minimum contrast level of 70% for food labels.

**Proposed action:**

The FoFR agrees not to pursue action in relation to recommendations 44 and 46 at this time.

**Recommendation 45:** That a set of guidelines be developed in consultation with industry that includes reference to other presentation factors such as letter and line spacing, text justification and stroke width.

**Response:** Supports in principle

**Timeframe for commencement:** 2–5 years

**Analysis:**

The review panel also identified a range of other general non-mandatory aspects of label presentational factors for development. These would aim to complement existing and any new mandatory requirements.

**Comment:**

The FoFR supports clear and comprehensible labelling and supports industry initiatives that optimise comprehension and readability of information on food labels. The FoFR notes that the AFGC is currently considering the development of principles for inclusion within the AFGC *Code of Practice for Food Labelling and Promotion*.

The FoFR further notes that FSANZ provides a user guide to assist industry in meeting the requirements set out in *Standard 1.2.9: Legibility Requirements* of the Food Standards Code relating to readability and legibility.

**Proposed action:**

The FoFR supports the work being undertaken by the AFGC and will request FSANZ to work with the AFGC and other industry organisations in Australia and New Zealand as appropriate to identify and clarify those presentational factors and problems with existing Food Standards Code provisions that lead to consumer confusion. These aspects of presentation could be explored through consumer research and raised as focus areas for industry to consider for inclusion in the AFGC *Code of Practice for Food Labelling and Promotion*.

**Recommendation 47:** That warning and advisory statements be emboldened and allergens emboldened both in the ingredients list and in a separate list.

**Response:** Notes and refers to FSANZ for technical evaluation and advice

**Timeframe for commencement:** < 2 years

**Analysis:**

The review panel suggested that emboldening warning and advisory statements may assist allergic consumers to more quickly identify allergens.

**Comment:**

This recommendation relates to the presentation of food safety information on the label and proposes a technical change to the mandatory presentation requirements for food labels in the Food Standards Code.

It is also closely linked to recommendation 6, which proposes that the food safety elements on labels be reviewed, with a view to maximising the effectiveness of food safety communication (refer section 3). On this basis, it is appropriate for FSANZ to provide technical advice to the FoFR, in the context of considering recommendation 6.

**Proposed action:**

The FoFR notes recommendation 47, and will request FSANZ to undertake a technical evaluation and provide advice, including advice on the benefits of mandatory requirements compared with the cost burden imposed by design limitations, before a final decision is made to amend the Food Standards Code.

**Recommendation 48:** That industry be encouraged to develop a set of guidelines relating to the co-location of mandatory health information presented in a standardised manner on the label. Government should facilitate this process through the provision of appropriate resources and expertise.

**Response:** Supports in principle

**Timeframe for commencement:** 2–5 years

**Analysis:**

The review panel suggested that consideration should be given to the co-location (location in one place) of mandatory health-related information (i.e. Nutrition Information Panel, ingredients list, warning statements, allergen identification and use, and storage instructions) on the label in order to influence its prominence, readability and consumers' comprehension. To further assist consumers, the review panel also suggested that industry could also elect to place approved nutrition, health and related claims in this location. The review panel took the view that individual information elements should build a clear overall picture of the health message, but where different elements of mandated information are placed in different areas of the label, it is difficult for consumers to locate and compare them. The review panel referenced advice from the United Kingdom's Food Standards Agency that all mandatory information should ideally be positioned on any single face of the pack within defined borders.

**Comment:**

The FoFR supports clear and comprehensible labelling and supports industry initiatives that optimise comprehension and readability of information on food labels.

To an extent, important health information tends to be co-located on labels already and the FoFR is not aware of any evidence that consumers are being disadvantaged through the current placement of information on labels.

**Proposed action:**

The FoFR supports recommendation 48 in principle and will support industry by requesting FSANZ to provide advice on any guidelines developed by industry.

**Recommendation 49:** That the development of an automated label assessment tool be investigated that can gauge a label's compliance with mandated legibility requirements and those stipulated in relevant voluntary codes.

**Response:** Notes

**Timeframe for commencement:** 2–5 years

**Analysis:**

The review panel recommended that new information technologies should be investigated for automated label assessment. The review panel reported a suggestion that it is possible to develop a design assessment tool that determines whether a given piece of text meets certain presentation standards.

**Comment:**

Governments already make available various materials to assist food labelling compliance by industry. Industry also has in place voluntary codes of practice to guide the provision of consistent and accurate information on food labels and advertising.

The development and ongoing maintenance of a computer program is potentially costly and may be impractical to implement due to the existence of many differing variables in a food label. Incorporating both mandatory requirements and voluntary guidance may also make the program complex and confusing.

Subject to industry's request for further assistance in this area, the promotion and, where appropriate, enhancement or extension of existing activities or tools could assist manufacturers and retailers. Tools such as the *New Zealand Food Labelling Guide* (an online tool), Queensland's *Label Buster* (an easy reference and checklist) and the AFGC's *Code of Practice for Food Labelling and Promotion* could be more widely promoted.

In addition, from 1 July 2011 FSANZ has operated a new Code Interpretation Service designed to help the food industry interpret the Food Standards Code. Businesses that require assistance with the Food Standards Code, including labelling requirements, will have a central point from which they can seek guidance and advice on requirements. All advice will be published and will be adopted and applied by all State and Territory food regulatory agencies.

**Proposed action:**

The FoFR supports the provision of guidance to industry to assist compliance with labelling requirements. The FoFR notes the recommendation and will request the FSANZ to consider the current tools available with a view to review, enhance and, where appropriate, more widely promote their use.

## Front-of-pack labelling

The review panel noted that, while some consumers regularly use the mandated nutrition information on food labels, many consumers either ignore the information or find it difficult to interpret. In particular, as the information requires some level of literacy and numeracy to interpret, it may not provide nutrition guidance to those in the community who may need it most.

The review panel considered that an effective front-of-pack labelling (FoPL) system can prompt consumers to reconsider their purchase decisions more regularly than the mandated back-of-pack information. It may also allow products with healthier attributes to efficiently convey this information to consumers, providing a marketing advantage. In turn, this may drive favourable product reformulation by motivating industry to improve the healthiness of products in the marketplace.

**Recommendation 50:** That an interpretative front-of-pack labelling system be developed that is reflective of a comprehensive Nutrition Policy and agreed public health priorities.

**Response:** Supports

**Timeframe for commencement:** < 2 years

### Analysis:

Under its terms of reference, the review panel was asked to evaluate current policies, standards and laws relevant to food labelling and existing work on FoPL. The review panel has made a suite of recommendations regarding the development, implementation and monitoring of an interpretive FoPL scheme. This recommendation focuses on the development of an interpretive FoPL scheme without articulating a preference for a particular type of scheme.

### Comment:

Front-of-pack nutrition labelling continues to be an issue that is of strong interest to stakeholders. Stakeholder views are polarised in relation to the appropriate FoPL format, in particular whether the format should be interpretive, as recommended by the review panel, or non-interpretive.

In 2008 the AFGC launched a voluntary non-interpretive FoPL system known as the *Daily Intake Guide* (DIG), which provides numerical and percentage-of-daily-intake values for a range of nutrients contained in a serving size determined by the manufacturer. The DIG system has been implemented by many major manufacturers and retailers and is generally supported by the food industry.

Public health and consumer stakeholders generally support an interpretive FoPL system, in particular a multiple traffic lights (MTL) system. However, the more limited Heart Foundation Tick system is the only interpretive FoPL system with a significant presence in the Australian and New Zealand marketplace.

Further work has also been undertaken to develop interpretive FoPL systems that build on existing systems and seek to overcome their limitations such as Sanitarium's Healthy Eating System (which is not in the market) and the New Zealand Nutrition Foundation's eMark (which is

available in the market but is only currently on one product). Both systems have the potential to overcome the technical objections raised by industry.

Stakeholder views are also polarised in relation to the role of government in this context. Many industry stakeholders believe that FoPL systems should be entirely market-driven and fear that government involvement will inevitably lead to mandating of an FoPL system. Many public health and consumer stakeholders believe that government should mandate an MTL system without further delay.

The FoFR notes there is common ground among stakeholders in several key respects. There is broad acknowledgement of the seriousness of chronic diet-related conditions and support for some form of FoPL as a means to provide consumers with information that helps them make healthier food choices. Stakeholders also agree that any FoPL system should be supported by consumer advice and education, monitoring and evaluation.

In 2009 the then Ministerial Council endorsed the *Front of Pack Labelling Policy Statement*. The Policy Statement provides the council's view that 'a FoPL scheme is a scheme that can guide consumer choice towards healthier food options' and sets out high-level aims for such a scheme.

**Proposed action:**

Despite the high-profile global debate on FoPL over a number of years, there has been no government-led discussion in Australia and New Zealand regarding the scope and detail of possible interpretive approaches. Given the divergence and passion of views regarding FoPL, the FoFR considers that government is best placed to lead a collaborative process that brings polarised views together to build on existing common ground.

The current Policy Statement provides a touchstone for further consideration of the key issues for FoPL that remain unresolved:

- whether FoPL should be non-interpretive to allow consumers to apply information as they see fit, or interpretive to help consumers to understand, interpret and apply information
- minimising the potential for unintended or undesirable consequences
- interpreting and building on the existing evidence base about the ability of FoPL to drive changes in consumer behaviour.

The FoFR recognises the willingness of industry to work with governments in relation to this issue. The FoFR proposes to undertake a collaborative design process with industry, public health and consumer stakeholders, with a view to reaching a broad consensus on a possible approach to interpretive FoPL. It is important that consensus is on the basis that the approach adopted achieves the aims and objectives set out in the Policy Statement.

The key objective will be to move away from the current divisive debate and polarised views by building on the common ground among stakeholders. The collaborative design process will focus on addressing issues of concern, exploring new approaches and exploring possibilities for building on existing schemes. The aim is to help avoid the proliferation of different FoPL systems and the potential for consumer confusion from conflicting or inconsistent nutrition messages.

The FoFR recognises that addressing these issues involves careful consideration of FoPL design, evaluation of evidence regarding effectiveness, and measures to address any gaps identified in the evidence base. It also requires a coordinated approach to consumer information that will support consumer understanding and encourage use of nutrition information on food labels.

An initial research phase will identify existing systems or models that may provide a useful starting point. Available evidence on consumer understanding and response will need to be marshaled and interpreted. Most importantly, technical flaws and potential unintended or undesirable consequences will need to be identified and addressed during the development process.

The collaborative design process will also assist in identifying gaps in the evidence base and possible research to address these gaps. Limited consumer testing may be useful during the development process.

FRSC will work with AHMAC to manage the collaborative approach and will utilise consultant technical expertise where necessary. Mechanisms will be established for stakeholders to provide policy and technical input to the process. The overall aim will be to work through the issues in a way that solves problems and builds consensus.

FRSC and AHMAC will report to the FoFR and the Standing Council on Health respectively on the outcomes of the collaborative design process, including the level of stakeholder consensus on the appropriateness and practicality of the approach. Major points of difference, if any, between stakeholders will be identified and recommendations made on how they might be addressed.

The FoFR has requested that FRSC provide a substantial progress report on the development of a FoPL system in June 2012, with a view to having it developed by December 2012.

The likely next steps will depend on the level of stakeholder consensus. If major points of difference are or can be resolved, consistent voluntary implementation by industry will be encouraged, supported by consumer education initiatives by government. Alternatively, depending on the level of consensus, either a pilot of the model interpretive system (if one is agreed) or a market-based comparative trial conducted by government, may be the next step.

### Which front-of-pack system?

**Recommendation 51:** That a multiple traffic lights front-of-pack labelling system be introduced. Such a system 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.

**Recommendation 52:** That government advice and support be provided to producers adopting the multiple traffic lights system and that its introduction be accompanied by comprehensive consumer education to explain and support the system.

**Recommendation 53:** That ongoing monitoring and evaluation of the multiple traffic lights system be undertaken to assess industry compliance and the effectiveness of the system in improving the food supply and influencing consumers' food choices.

**Recommendation 54:** That chain food service outlets across Australia and New Zealand be encouraged to display the multiple traffic lights system on menus/menu boards. Such a system be mandatory where general or high-level health claims are made or equivalent endorsements/trade names/marks are used.

**Recommendation 55:** That any beverages containing alcohol be exempt from nutrition-related front-of-pack labelling requirements.

**Response:** On hold pending the outcome of recommendation 50

**Timeframe for commencement:** On hold

**Analysis:**

In recommendation 50 the review panel proposed that an interpretive FoPL system be developed, and that this system should reflect nutrition policy and agreed public health priorities. In contrast to recommendation 50, recommendations 51–55, which deal with the implementation and monitoring of such a system, are specific about the type of FoPL scheme favoured by the review panel, namely the MTL labelling system.

**Comment:**

The implementation and monitoring of any FoPL system cannot commence until the type of system is agreed. While recommendations 51–55 pre-suppose that a MTL FoPL system will be implemented, this is pre-emptive of the outcome of recommendation 50. The MTL system is only one approach to interpretive FoPL, and all other approaches need to be considered before recommendations 51–55 can be considered.

It is recognised that there are some elements of recommendations 51–55 that will need to be considered irrespective of which FoPL system is adopted. A comprehensive consumer education campaign to explain and support the system (recommendation 52) will be critical. Also, ongoing monitoring and evaluation of any system to assess both industry compliance and effectiveness (recommendation 53) is fundamental.

**Proposed action:**

All action will be on hold pending completion of the actions resulting from recommendation 50 and the determination of an agreed interpretive FoPL approach.

## Information technology

**Recommendation 56:** That the potential of new information technologies be considered by consumer organisations, industry and government to provide extended product labelling for non-mandatory information.

**Response:** Supports

**Timeframe for commencement:** As appropriate

### **Analysis:**

The review panel recognised the need to take into account the finite space on food labels, and balance the growing demand from consumers for more information on food labels. To this end, the review panel saw value in encouraging the exploration of extended labelling technologies.

### **Comment:**

The use of new technologies and communication channels to complement the information on traditional food labels has merit. Food labels are only one source of information for consumers. Developments in information technology provide alternative and supplementary ways to provide relevant information to consumers. These tools can deliver consumer information in a rapid, interactive and individualised manner.

There is already significant work underway by the food industry to explore the opportunities for information technologies to provide extended food labelling to the consumer.

### **Proposed action:**

The FoFR supports recommendation 56 and encourages industry to develop and promote these technologies, where appropriate, as they become available in the marketplace.

## 7. Compliance and enforcement

The review panel outlined that, as a general principle of good governance, members of the community must feel confident in the food regulatory system.

There is a structural split in the national food regulatory system. Food standards are designed by FSANZ in consultation with relevant bodies. However, FSANZ has no responsibility for compliance or enforcement of food standards. Compliance and enforcement of food standards are the responsibility of State, Territory and New Zealand food regulators. Food regulators may be government departments, statutory authorities or local governments.

Also, there are general provisions of Australian and New Zealand consumer protection laws that can apply, which relate to misleading and deceptive conduct.

Food regulators take a risk-based approach to compliance and enforcement of food legislation by giving priority to investigating issues that may give rise to direct risks to public health and safety. This leaves restricted capacity to monitor and enforce labelling standards that do not involve direct health risks. Further, food regulators that are health agencies (including local government health departments) may not give priority to the enforcement of laws aimed at consumer information, as this is (or may be perceived to be) outside their agency's core purpose and remit.

Governments face countless competing demands for resources and a limited revenue base. Where full cost recovery from regulated sectors is not feasible, regulatory functions must compete with community service delivery and infrastructure priorities for a limited pool of funds. In reality, enforcement of regulations, especially regulations that do not address direct risks to health and safety, is allocated a lower priority.

This approach is consistent with the regulatory model proposed in the review panel's conceptual framework for food labelling (refer recommendation 2, section 2), which assigns relative priority to different categories of food labelling issues and sets the highest priority for government intervention in relation to public health and safety issues.

### Current approaches

**Recommendation 57:** That monitoring and enforcement of food labelling requirements of the Food Standards Code (accuracy as well as the presence of labelling information) be considered equally important as other aspects of the Food Standards Code and the responsible agencies be given the appropriate level of resources to meet their obligations.

**Response:** Supports in principle

**Timeframe for commencement:** As appropriate

**Analysis:**

Recommendation 57 reflects concerns raised by stakeholders about the adequacy of compliance and enforcement of food labelling standards. The review panel referred to studies that suggest more active monitoring and enforcement across jurisdictions is necessary.

**Comment:**

The FoFR supports the intent of recommendation 57 to the extent it seeks to ensure the effective monitoring and enforcement of food labelling laws. The FoFR will explore a range of policy options for increasing the capacity of the food regulatory system to monitor and enforce food laws in a way that broadly meets stakeholders' expectations.

Food regulators apply a risk-based approach to enforcement and monitoring of compliance with food legislation. Regulators assign priority to pursuing matters that may directly impact on public health and safety.

**Proposed action:**

The FoFR supports the existing risk-based approach to monitoring and enforcement. It will continue to receive advice from the FRSC on monitoring and enforcement outcomes, and respond to issues when appropriate.

**Recommendation 58:** That the Model Food Provisions and the food acts of the jurisdictions be amended to allow a more versatile range of enforcement provisions, such as the power to make orders or require user-paid compliance testing consequent on a breach or impose enforceable undertakings in relation to non-compliant labelling.

**Response:** Supports

**Timeframe for commencement:** < 2 years

**Analysis:**

The review panel stated that under current legislation formal enforcement actions for breaches of food labelling are almost always limited to prosecutions, which are often time consuming and expensive to mount. However, the FoFR notes that the *Model Food Provisions* also provide for penalty notices used by jurisdictions.

The review panel believed that more immediate and productive ways of securing compliance with the Food Standards Code should be considered. These could include the power to issue orders requiring improperly labelled food to be removed from the shelves or to be correctly labelled, as well as enforceable undertakings requiring specified corrective actions such as re-labelling, withdrawing products from sale, placing advertisements in the media or otherwise informing consumers.

The review panel stated that if both the options it suggested were introduced, it would increase the capacity for prompt enforcement of compliance with the Food Standards Code. This would mean that prosecution would only be required where the breach is regarded as sufficiently serious to

warrant it, such as for repeat offenders or where the person has not complied with the order or undertaking.

The aim of this recommendation is to amend legislation to provide jurisdictions with a range of enforcement tools to enforce the provisions of the Food Standards Code, particularly those relating to labelling requirements.

**Comment:**

The *Model Food Provisions* include the power to issue *Penalty Infringement Notices* (PINs) for noncompliance with its provisions. PINs, or the equivalent, have been adopted by a number of jurisdictions and applied to breaches of the Food Standards Code's labelling requirements.

However, many of the other options in the *Model Food Provisions* available for enforcing compliance with the Food Standards Code and State and Territory Food Acts, such as improvement notices or prohibition orders, are not applicable to contraventions of labelling requirements because they relate to addressing unclean or unfit premises/vehicles/equipment or unsafe food. Also, the emergency powers of the *Model Food Provisions* can only be used to prevent or mitigate a serious danger to public health.

The need for a broader range of tools for enforcing compliance with labelling requirements has previously been identified by the FRSC's ISC; a number of additional tools that could increase industry compliance with the labelling requirements of the Food Standards Code were identified.

Further work in the development of supplementary enforcement tools for the *Model Food Provisions* should complement the existing compliance and enforcement tools, and tools could have applicability to other standards – not just labelling standards. Also, consideration of any changes to the *Model Food Provisions* would need to take into account the requirements of the *Food Regulation Agreement*; therefore, the initial policy work should be undertaken by the FRSC, which will then advise the FoFR. This recommendation would apply only in Australia.

**Proposed action:**

The FoFR will request the FRSC to consider the work already completed by the ISC and the range of potential enforcement tools that could be available to address noncompliant labelling and make recommendations to the FoFR regarding amendments to the *Model Food Provisions* to be adopted by all jurisdictions. The practical implementation of recommendation 3 will also be considered as part of this work.

**Recommendation 59:** That consumer protection concerns related to food labelling be accorded a high priority by the relevant consumer protection agencies (Australian Competition and Consumer Commission, New Zealand Commerce Commission, and State and Territory consumer protection agencies) and complaints be processed and resolved in a timely and transparent manner.

**Response:** Supports in principle

**Timeframe for commencement:** Not applicable

**Analysis:**

The review panel considered it important that the consumer protection laws are effectively enforced and that misleading or deceptive claims are followed up and resolved.

**Comment:**

The food regulation system is supported by complementary general consumer protection provisions relating to misleading or deceptive representations. In New Zealand consumer protection is covered by the *New Zealand Fair Trading Act 1986* and monitored and enforced by the NZCC. In Australia the national consumer protection legislation is the CCA, which is monitored by the ACCC, plus State and Territory consumer protection provisions monitored by particular State and Territory consumer protection agencies.

The ACL, a cooperative reform of Australia's consumer protection laws, commenced on 1 January 2011. The ACL guarantees consumer rights when buying goods and services and creates a national enforcement regime, with consistent enforcement powers for Australia's consumer protection agencies to take effective action for consumers.

The ACCC, NZCC and State and Territory consumer protection agencies all have formal processes for handling complaints. Complaints should at all times be handled appropriately and resolved in a timely manner, but this necessarily takes place within the broader context of limited resources and competing priorities of consumer protection agencies.

Agencies assess complaints against their risk-based consumer protection principles within a whole-of-economy context. Priority goes to matters of significant consumer detriment and national interest issues. Not all labelling complaints are afforded equal priority or even high priority – some complaints have the potential for very significant impacts on the health and safety of a broad or vulnerable population and others do not. The priority applied to food labelling complaints should therefore continue to be a matter for each consumer protection agency, within their existing framework.

It should also be noted that FSANZ has a Memorandum of Understanding with the ACCC to ensure cross-agency collaboration on food labelling issues that transcend both agencies.

**Proposed action:**

The FoFR notes that consumer protection concerns are afforded appropriate priority by relevant agencies within the context of their existing risk-based frameworks.

## A new approach

**Recommendation 60:** That food standards always be drafted with the understanding that they are intended to be enforceable legal documents. Where current deficiencies in the labelling requirements have been identified, standards should be re-drafted to make the obligations clear.

**Response:** Supports

**Timeframe for commencement:** As appropriate

### Analysis:

The review panel stated that labelling standards should be written in such a way that they clearly convey what is required of industry and are also capable of being enforced should a prosecution occur.

Unclear drafting of standards poses a substantial barrier for compliance and enforcement. The review panel reported that a number of stakeholders were critical of the wording of the standards, claiming that they were poorly drafted; others called for a review of the Food Standards Code.

### Comment:

The FoFR agrees that the Food Standards Code should be clear, unambiguous and legally enforceable. Issues with the wording and enforcement of the Food Standards Code have been previously recognised by the then Ministerial Council and action has commenced in a number of areas:

- An audit of the Food Standards Code was conducted by the Australian Government's Office of Legislative Drafting and Publishing in 2010. An implementation plan to address the identified deficiencies has been developed by FSANZ.
- The newly established Food Standards Code Interpretation Service (CIS) within FSANZ commenced operation on 1 July 2011. The CIS will provide public interpretive advice for chapters 1 and 2 of the Food Standards Code. The CIS will undertake appropriate consultation and have due regard to the timeliness of quality interpretive advice. The interpretive advice issued by the CIS is to be adopted and applied by relevant State and Territory food regulatory enforcement agencies in the course of their monitoring and enforcement activities. Interpretive advice will be issued as guidelines to assist the interpretation of the Food Standards Code. The CIS may also cease the development of interpretive advice when it identifies poorly worded standards and refer the matter for formal review and possible redrafting of the standard.
- The ISC is continuing its role in ensuring that the framework for the *Strategy for the consistent implementation of food regulation in Australia* results in standards being drafted that are legally enforceable. The ISC can recommend that guidelines or codes of practice be developed where greater clarity on the interpretation of a standard is required.

### Proposed action:

The FoFR supports continuation of the initiatives outlined above.

## A food labelling bureau

**Recommendation 61:** That a new and effectively resourced entity in the form of a trans-Tasman Food Labelling Bureau be established under the *Food Standards Australia New Zealand Act 1991* to undertake the functions as specified in this Report and more generally to:

- (a) be the primary contact for, and source of, food labelling information and advice;
- (b) undertake research into food labelling issues;
- (c) undertake a general educational role in relation to food labelling issues and requirements;
- (d) assist industry to comply with labelling requirements;
- (e) act as a clearinghouse for complaints and facilitate compliance and the resolution of complaints;
- (f) monitor and report on food labelling compliance; and
- (g) monitor consumer values issues claims on labels and liaise with consumer protection agencies in relation to confusing, misleading or deceptive food labelling.

**Response:** Does not support

**Timeframe for commencement:** Not applicable

### Analysis:

The review panel accepted 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, it recommended the establishment of a food labelling bureau to advise Australian and New Zealand Ministers on all aspects of labelling policy. The review panel stated that the 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 review panel described the bureau's role as being administrative, advisory and a monitor of compliance and enforcement. The review panel also states that it would be user-friendly for consumers and industry and would marshal and support the resources already on the ground. The review panel considered that the development of such a new entity would show that food labelling is taken seriously by governments.

### Comment:

The proposed labelling bureau would establish another bureaucratic layer to the food regulation system, without providing any additional capacity for enforcement.

This recommendation is intended to address the issue of inconsistent interpretation and enforcement of labelling standards between jurisdictions. However, it is unclear how such a body would provide guidance on enforcement matters when responsibility for enforcement of labelling (and other) standards would remain with individual jurisdictions.

The recently established Food Standards Code Interpretation Service (CIS), operated by FSANZ, is designed to address the inconsistent interpretation and enforcement of labelling standards between jurisdictions. The CIS will provide centralised interpretive advice in relation to food standards, which is to be adopted and applied by all relevant regulatory agencies in Australia in the course of their monitoring and enforcement activities. A key aim of this service is to facilitate consistent implementation of food standards by relevant regulatory agencies and industry across

jurisdictions and local governments. The effectiveness of the CIS is to be reviewed after two years of operation.

In performing the CIS function (as well as its existing roles), FSANZ will perform the functions identified in 'b', 'c' and 'd' of the recommendation. Because individual jurisdictional regulators will retain the responsibility for enforcement of food law, each regulator must determine how to most effectively undertake these duties while utilising finite resources. It would be inappropriate for a national body with no enforcement responsibilities to direct regulators as to how to undertake these duties. It would therefore be problematic for the functions identified in 'e' 'f' and 'g' of the recommendation to be performed by a new (or existing) national body.

There could be merit and a more prudent approach to tackle the issues that this recommendation intends to address through examining the existing structures of the food regulatory system, with a view to enhancing the coordination between jurisdictions with respect to interpretation and enforcement of food standards. This includes an assessment of the effectiveness of the CIS in achieving its aims.

To this end, it is important to note the work of the FRSC's ISC in continuing to promote a consistent approach to the implementation of food regulation across the jurisdictions. As part of this role, ISC has developed its framework entitled the *Strategy for the consistent implementation of food regulation in Australia*, which has facilitated the drafting of food standards that are legally enforceable. Furthermore, ISC has a role in recommending the development of guidelines or codes of practice where it considers there is a need for greater clarity on the interpretation of a standard.

**Proposed action:**

The FoFR supports the continuation of the work already being undertaken by FSANZ. The FoFR also acknowledges that there may be scope to promote the existing educational role of FSANZ, which would contribute to achieving the objective identified in function 'c' of this recommendation.

## Appendix: Response at a glance

The following provides a summary of the responses at a glance including the proposed timeframe for action. For more information relating to each, please refer to the relevant sections of the response.

Recommendation	Response	Proposed timeframe for action		
		< 2 years	2–5 years	Other
<b>Recommendation 1:</b> That the Food Standards Australia New Zealand Act 1991 be amended to include a definition of public health to the effect that: ‘Public Health is the organised response by society to protect and promote health, and to prevent illness, injury and disability’.	Supports in principle	✓		
<b>Recommendation 2:</b> That food labelling policy be guided by an issues hierarchy in descending order of food safety, preventative health, new technologies and consumer values issues. Regulatory action in relation to food safety, preventative health and new technologies should primarily be initiated by government and referenced in the Food Standards Code. Regulatory action in relation to consumer values issues should generally be initiated by industry and referenced to consumer protection legislation, with the possibility of some specific methods or processes of production being referenced in the Food Standards Code.  The modes of intervention should be mandatory for food safety; a mixture of mandatory and co-regulation for preventative health, the choice dependent on government health priorities and the effectiveness or otherwise of co-regulatory measures; and mandatory with time limits for new technologies. 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 or the ineffectiveness of self-regulatory schemes.	Supports in principle	✓		
<b>Recommendation 3:</b> That once the case for a labelling standard has been established and becomes part of the Food Standards Code, sufficient resources be allocated to ensure that it is effectively monitored and enforced.	Supports in principle	✓		

<p><b>Recommendation 4:</b> That consumer protection concerns be accorded a high priority by the relevant government agencies and complaints be properly processed and resolved.</p>	Supports in principle	✓		
<p><b>Recommendation 5:</b> That information on food labels be presented in a clear and comprehensible manner to enhance understanding across all levels of the population.</p>	Supports in principle	✓		
<p><b>Recommendation 6:</b> That the food safety elements on the food label be reviewed with the aim to maximise the effectiveness of food safety communication.</p>	Notes and refers to FSANZ for technical evaluation and advice	✓		
<p><b>Recommendation 7:</b> That there be more effective monitoring and enforcement of the existing requirements in the Food Standards Code to provide mandatory warning and advisory statements and allergen declarations on packages of food not for retail sale, foods for sale at restaurants and other food outlets, foods from mobile food vendors and vending machines, and foods for catering purposes.</p>	Supports in principle		✓	
<p><b>Recommendation 8:</b> That the Voluntary Incidental Trace Allergen Labelling system be explored as a possible supplementary model to manage food label declarations relating to the adventitious presence of allergens in foods.</p>	Supports			Not applicable
<p><b>Recommendation 9:</b> That a comprehensive Nutrition Policy be developed that includes a framework for the roles of the food label. Key aspects of the framework to be:</p> <ul style="list-style-type: none"> <li>a) the provision of food safety and nutrition information and education strategies to protect and promote the health of the population, including articulated roles for food label elements;</li> <li>b) the encouragement of the provision of healthy foods within the food supply to facilitate healthy diets;</li> <li>c) the setting and application of nutrient criteria and dietary guidance;</li> <li>d) the facilitation of social and other research to improve understanding of how label information is used and its impact on food selection, eating behaviours and the food supply;</li> <li>e) the establishment of monitoring and surveillance systems for dietary/nutrition practices that include the use and understanding of food labels.</li> </ul> <p>Such a policy should be developed as a priority, within the framework of the governments' preventative health agendas and cognisant of the present Australian initiatives on food security and a national food plan.</p>	Supports	✓		

<b>Recommendation 10:</b> That the Food Standards Australia New Zealand Act 1991 be amended to require Food Standards Australia New Zealand to 'have regard' to the comprehensive Nutrition Policy when developing or reviewing labelling standards.	Supports in principle			Not applicable
<b>Recommendation 11:</b> That industry develop in consultation with government, medical authorities and relevant consumer organisations a voluntary code of practice and education initiatives to enable consumers to quickly identify label information relating to additives, colourings and flavourings that are of agreed medical priority for sensitive consumers.	Notes			As required
<b>Recommendation 12:</b> That where sugars, fats or vegetable oils are added as separate ingredients in a food, the terms 'added sugars' and 'added fats' and/or 'added vegetable oils' be used in the ingredient list as the generic term, followed by a bracketed list (e.g., added sugars (fructose, glucose syrup, honey), added fats (palm oil, milk fat) or added vegetable oils (sunflower oil, palm oil).	Notes and refers to FSANZ for technical evaluation and advice	✓		Requires further advice
<b>Recommendation 13:</b> That mandatory declaration of all trans fatty acids above an agreed threshold be introduced in the Nutrition Information Panel if manufactured trans fatty acids have not been phased out of the food supply by January 2013.	Notes and refers to FSANZ for technical evaluation and advice	✓		Requires further advice
<b>Recommendation 14:</b> That declaration of total and naturally occurring fibre content be considered as a mandatory requirement in the Nutrition Information Panel.	Notes and refers to FSANZ for technical evaluation and advice	✓		Requires further advice
<b>Recommendation 15:</b> That voluntary declaration of potassium content in the Nutrition Information Panel be actively considered by industry. If nutritional policy guidance recommends the reduction in consumption of potassium for at-risk population groups in the future, disclosure of potassium in the Nutrition Information Panel should become mandatory.	Supports in part	✓		
<b>Recommendation 16:</b> That social research be undertaken to determine effective mechanisms to present sodium/salt information on food labels to facilitate consumers' understanding and use of this information.	Supports in principle		✓	
<b>Recommendation 17:</b> That the declaration in the Nutrition Information Panel of amount of nutrients per serve be no longer mandatory unless a daily intake claim is made.	Supports	✓		

<p><b>Recommendation 18:</b> That declaration of energy content of standardised food items on the menu/menu boards or in close proximity to the food display or menu be mandatory in chain food service outlets and on vending machines. Further, information equivalent to that provided by the Nutrition Information Panel should be available in a readily accessible form in chain food service outlets.</p>	Notes			Pending evaluation of existing initiatives
<p><b>Recommendation 19:</b> That a responsive regulatory approach to the use of simple words and terms that may infer health implications be commenced, with the food industry working with Food Standards Australia New Zealand to develop a Code of Practice covering consistent use of definitions for such words and terms, with a view to their use being restricted if appropriate constraint is not implemented.</p>	Supports			As appropriate
<p><b>Recommendation 20:</b> That the Standard for Nutrition, health and related claims on food labels which reflects agreed public health goals be finalised and that it include the following:</p> <ul style="list-style-type: none"> <li>(a) a hierarchy of substantiation of claims at the various levels, that would encompass use of defined nutrition words and terms, pre-approved relationships, authoritative sources, systematic review and pre-market assessment and approval;</li> <li>(b) a requirement that all foods that carry a nutrition, health and related claim comply with an agreed nutrient profiling system;</li> <li>(c) a requirement that the presence of a nutrition, health and related claim triggers relevant information disclosures in the Nutrition Information Panel or ingredients list; and</li> <li>(d) a requirement that the presence of a general or high level claim triggers display of standardised front-of-pack label information.</li> </ul>	Supports finalisation of the health claims standard	✓		
<p><b>Recommendation 21:</b> That applications for trade names and trademarks be scrutinised by the relevant agencies to identify and reject words and devices that have the effect of inferring health implications that are otherwise prohibited under the Food Standards Code.</p>	Supports in principle		✓	
<p><b>Recommendation 22:</b> That mandatory messages supporting preventative health strategies may be instigated by governments, provided the following conditions are met:</p> <ul style="list-style-type: none"> <li>a. substantiation requirements are fulfilled — the epidemiological evidence is strong;</li> <li>b. the message is consistent with the comprehensive Nutrition Policy;</li> <li>c. food labelling is an appropriate response to the problem; and</li> <li>d. the label is one part of a multifaceted campaign.</li> </ul>	Supports in principle			Not applicable

<b>Recommendation 23:</b> That a consistent, seamless regulatory approach for nutrition, health and related claims be adopted for food, complementary medicines and dietary supplements.	Supports in principle		✓	
<b>Recommendation 24:</b> That generic alcohol warning messages be placed on alcohol labels but only as an element of a comprehensive multifaceted national campaign targeting the public health problems of alcohol in society.	Notes			Pending advice
<b>Recommendation 25:</b> 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, as support for ongoing broader community education.	Notes	✓		
<b>Recommendation 26:</b> That energy content be displayed on the labels of all alcoholic beverages, consistent with the requirements for other food products.	Supports in principle	✓		Requires further research
<b>Recommendation 27:</b> That drinks that are mixtures of alcohol and other beverages comply with all general nutrition labelling requirements, including disclosure of a mandatory Nutrition Information Panel.	Agrees not to pursue			Not applicable
<b>Recommendation 28:</b> That as a general principle all foods or ingredients that have been processed by new technologies (i.e., all technologies that trigger pre-market food safety assessments) be required to be labelled for 30 years from the time of their introduction into the human food chain; the application of this principle to be based on scientific evidence of direct impact on, or modification of, the food/ingredient to be consumed. At the expiry of that period the mandatory labelling should be reviewed.	Agrees not to pursue			Not applicable
<b>Recommendation 29:</b> That only foods or ingredients that have altered characteristics or contain detectable novel DNA or protein be required to declare the presence of genetically modified material on the label.	Supports			Not applicable
<b>Recommendation 30:</b> That any detection of an adventitious genetically modified event be followed by a period of monitoring and testing of that food or ingredient.	Agrees not to pursue at this time			Not applicable
<b>Recommendation 31:</b> That foods or ingredients with flavours containing detectable novel DNA or protein not be exempt from the requirements to declare the presence of genetically modified material on the label.	Agrees not to pursue at this time			Not applicable

<b>Recommendation 32:</b> That foods or ingredients that have been genetically modified and would require declaration if labelled be declared on menu/menu boards or in close proximity to the food display or menu in chain food service outlets and on vending machines.	Agrees not to pursue at this time			Not applicable
<b>Recommendation 33:</b> That governments ensure effective monitoring of labelling requirements in the Food Standards Code relating to genetically modified foods or ingredients through support for sufficient Australian and New Zealand laboratories, observing world best practice protocols, and with the necessary resources and analytical skills.	Does not support			Not applicable
<b>Recommendation 34:</b> That the requirement for mandatory labelling of irradiated food be reviewed.	Supports	✓		
<b>Recommendation 35:</b> That Food Standards Australia New Zealand and other relevant bodies develop as a matter of urgency a standard for regulating the presence of nanotechnology in the food production chain, consistent with the recommendations in this Report relating to new technologies.	Notes			Not applicable
<b>Recommendation 36:</b> That Food Standards Australia New Zealand consider adopting, by reference in the Food Standards Code, values-based definitions and/or standards relating to specific food production methods and processes, if requested by industry, to achieve consistency of definitions.	Does not support			Not applicable
<b>Recommendation 37:</b> That the relevant livestock industries consider the benefit of establishing agreed standards under the auspices of Standards Australia or Standards New Zealand for terms related to animal husbandry (e.g., 'free range', 'barn laid' and 'caged' in the case of poultry).	Notes			Not applicable
<b>Recommendation 38:</b> That the value of industry-initiated self-regulatory intervention be recognised and that industry in collaboration with special interest groups further develop and apply a responsive and more structured self-regulatory approach to consumer values issues that incorporates: (a) the role that voluntary codes of practice can play in relation to the evolution of standard definitions for values-based claims; (b) the role that certification schemes can play in effectively communicating values-based messages; and (c) the development of agreed standards through existing frameworks such as International Organization for Standardization, Standards Australia or Standards New Zealand.	Supports	✓		

<b>Recommendation 39:</b> That a monitoring regime for self-regulatory measures be established and when evidence of systemic failure to provide accurate and consistent values-based information to enable consumers to make informed choices is found, a more prescriptive mode of regulation is triggered.	Supports in part	✓		
<b>Recommendation 40:</b> That Australia's existing mandatory country-of-origin labelling requirements for food be maintained and be extended to cover all primary food products for retail sale.	Notes	✓		
<b>Recommendation 41:</b> That mandatory requirements for country-of-origin labelling on all food products be provided for in a specific consumer product information standard for food under the Competition and Consumer Act 2010 rather than in the Food Standards Code.	Does not support			Not applicable
<b>Recommendation 42:</b> That for foods bearing some form of Australian claim, a consumer-friendly, food-specific country-of-origin labelling framework, based primarily on the ingoing weight of the ingredients and components (excluding water), be developed.	Does not support	✓		
<b>Recommendation 43:</b> That the Perceptible Information Principle be used as a guide for labelling presentation to maximise label comprehension among a wide range of consumers.	Notes and refers to FSANZ for technical evaluation and advice	✓		
<b>Recommendation 44:</b> That a minimum font size of 3.5mm in an open font style in mixed case be applied for mandated information, with the exception of small package sizes where the minimum font size should be 1.5mm.	Agrees not to pursue at this time			Not applicable
<b>Recommendation 45:</b> That a set of guidelines be developed in consultation with industry that includes reference to other presentation factors such as letter and line spacing, text justification and stroke width.	Supports in principle		✓	
<b>Recommendation 46:</b> That a minimum contrast level of 70% for mandated information be stipulated in the Food Standards Code	Agrees not to pursue at this time			Not applicable
<b>Recommendation 47:</b> That warning and advisory statements be emboldened and allergens emboldened both in the ingredients list and in a separate list.	Notes and refers to FSANZ for technical evaluation and advice	✓		
<b>Recommendation 48:</b> That industry be encouraged to develop a set of guidelines relating to the co-location of mandatory health information presented in a standardised manner on the label. Government should facilitate this process through the provision of appropriate resources and expertise.	Supports in principle		✓	

<b>Recommendation 49:</b> That the development of an automated label assessment tool be investigated that can gauge a label's compliance with mandated legibility requirements and those stipulated in relevant voluntary codes.	Notes		✓	
<b>Recommendation 50:</b> That an interpretive front-of-pack labelling system be developed that is reflective of a comprehensive Nutrition Policy and agreed public health priorities.	Supports	✓		
<b>Recommendation 51:</b> That a multiple traffic lights front-of-pack labelling system be introduced. Such a system 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.	On hold			Pending the outcome of recommendation 50
<b>Recommendation 52:</b> That government advice and support be provided to producers adopting the multiple traffic lights system and that its introduction be accompanied by comprehensive consumer education to explain and support the system.				
<b>Recommendation 53:</b> That ongoing monitoring and evaluation of the multiple traffic lights system be undertaken to assess industry compliance and the effectiveness of the system in improving the food supply and influencing consumers' food choices.				
<b>Recommendation 54:</b> That chain food service outlets across Australia and New Zealand be encouraged to display the multiple traffic lights system on menus/menu boards. Such a system be mandatory where general or high level health claims are made or equivalent endorsements/trade names/marks are used.				
<b>Recommendation 55:</b> That any beverages containing alcohol be exempt from nutrition-related front-of-pack labelling requirements.				
<b>Recommendation 56:</b> That the potential of new information technologies be considered by consumer organisations, industry and government to provide extended product labelling for non-mandatory information.	Supports			As appropriate
<b>Recommendation 57:</b> That monitoring and enforcement of food labelling requirements of the Food Standards Code (accuracy as well as the presence of labelling information) be considered equally important as other aspects of the Food Standards Code and the responsible agencies be given the appropriate level of resources to meet their obligations.	Supports in principle			As appropriate

<p><b>Recommendation 58:</b> That the Model Food Provisions and the food acts of the jurisdictions be amended to allow a more versatile range of enforcement provisions, such as the power to make orders or require user-paid compliance testing consequent on a breach or impose enforceable undertakings in relation to non-compliant labelling.</p>	Supports	✓		
<p><b>Recommendation 59:</b> That consumer protection concerns related to food labelling be accorded a high priority by the relevant consumer protection agencies (Australian Competition and Consumer Commission, New Zealand Commerce Commission, and State and Territory consumer protection agencies) and complaints be processed and resolved in a timely and transparent manner.</p>	Supports in principle			Not applicable
<p><b>Recommendation 60:</b> That food standards always be drafted with the understanding that they are intended to be enforceable legal documents. Where current deficiencies in the labelling requirements have been identified, standards should be re-drafted to make the obligations clear.</p>	Supports			As appropriate
<p><b>Recommendation 61:</b> That a new and effectively resourced entity in the form of a trans-Tasman Food Labelling Bureau be established under the Food Standards Australia New Zealand Act 1991 to undertake the functions as specified in this Report and more generally to:</p> <ul style="list-style-type: none"> <li>(a) be the primary contact for, and source of, food labelling information and advice;</li> <li>(b) undertake research into food labelling issues;</li> <li>(c) undertake a general educational role in relation to food labelling issues and requirements;</li> <li>(d) assist industry to comply with labelling requirements;</li> <li>(e) act as a clearinghouse for complaints and facilitate compliance and the resolution of complaints;</li> <li>(f) monitor and report on food labelling compliance; and</li> <li>(g) monitor consumer values issues claims on labels and liaise with consumer protection agencies in relation to confusing, misleading or deceptive food labelling.</li> </ul>	Does not support			Not applicable