

# **Australia and New Zealand Food Regulation Ministerial Council**

## **Final Communiqué**

**23 October 2009**

### **Food Ministers announce Dr Neal Blewett to Chair the Food Labelling Review.**

Ministers responsible for food issues in Australia and New Zealand met in Brisbane today. The Chair of the Australia and New Zealand Food Regulation Ministerial Council, Australian Parliamentary Secretary for Health, Mark Butler, announced that former Australian Health Minister, Dr Neal Blewett AC, will head up the Panel which will undertake a comprehensive examination of food labelling law and policy.

“Dr Blewett was a pioneer of Australia’s universal Medicare health system and is a strong advocate for the rights of consumers. I am delighted that he has agreed to chair the Review Panel,” Mr Butler said.

“The expert panel of prominent people that is currently being set up will bring together a wealth of expertise in public policy, public health, economics, law, consumer behaviour and business” Mr Butler said.

The Terms of Reference of the review have been publicly released today and Mr Butler said Ministers are encouraging individuals and organisations to make initial submissions to the review by 20 November 2009. Submissions can be emailed to [FoodLabellingReview@health.gov.au](mailto:FoodLabellingReview@health.gov.au). There will be further opportunity to make submissions to the Review.

“This extensive Review will play an important role both for consumers who are looking for clarity in labelling and industry who are looking for certainty about their roles and responsibilities,” Mr Butler said.

### **Trans Fatty Acids and Saturated Fats in the Australia and New Zealand Food Supply**

The Ministerial Council received the review report, *Intakes of Trans Fatty Acids in Australia and New Zealand 2009 Assessment*, which shows that intakes of trans fatty acids are decreasing in both nations. The Ministerial Council endorsed the recommendation to retain current non-regulatory approaches to reducing the levels of trans fatty acids in the food supply, and agreed to the publication of the report on the website of FSANZ. The Ministerial Council welcomed the work of industry to reduce trans fatty acids in food by 25-40%. However Ministers expressed concern that intakes of saturated fat remained higher than the National Health and Medical Research Council recommendations and agreed to provide the report to the Australian Health Ministers’ Conference for their information and consideration.

Ministers expressed their hope that a cooperative approach can also be taken with industry to reduce levels of saturated fat.

## **Caffeinated Energy Drinks**

The Ministerial Council noted community concerns at the number of caffeinated energy drinks on the market and reports of recent incidents involving their consumption by young people. The Ministerial Council agreed that it would be timely to review the scientific evidence on caffeine and its use and noted the actions already taken by the TGA and NSW Government in this area. The Ministerial Council asked the Standing Committee to consider the issues raised and report back to their next meeting with further information and options for action. The Ministerial Council also agreed that, in the meantime, a national compliance strategy for caffeinated energy drinks be developed.

## **Other issues discussed by the Ministerial Council today included:**

### **Front of Pack Labelling**

Front of pack labelling will be one of the issues to be considered by the Food Labelling Review Panel, and today Ministers endorsed a Ministerial Council policy statement which outlines its views on food labelling that could be used to guide consumers to healthier food options. The statement will be provided to the Review Panel for consideration and at the same time it will be provided to Food Standards Australia New Zealand (FSANZ) to inform their input into the Food Labelling Review and any subsequent actions that might result from the Review.

### **Policy Guideline for the Fortification of Foods with Vitamins and Minerals**

The Ministerial Council endorsed a revised Policy Guideline for the Fortification of Foods with Vitamins and Minerals. The updated guideline now specifies that permission to fortify should not promote increased consumption of foods with little or no nutritional value and that have no other demonstrated health benefits.

### **Policy Guideline on the Intent of Part 2.9 of the Code – Special Purpose Foods**

The Ministerial Council endorsed the draft Policy Guideline on the Intent of Part 2.9 of the Food Standards Code – Special Purpose Foods. Part 2.9 of the Code is intended to contain food standards that prescribe specific requirements for foods processed or manufactured for use by physiologically vulnerable individuals and population sub-groups. Food Standards contained within Part 2.9 of the Code should maintain a clear distinction between special purpose foods and foods that are regulated elsewhere in the Code. The Ministerial Council agreed to provide the Policy Guideline to FSANZ to assist in the reviewing of this part of the Code.

*Statement, policy guidelines and Terms of Reference that have been endorsed during the meeting will be published on the Food Regulation Secretariat website.*

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**Dr Neal Blewett AC**

After a distinguished academic career, including a period as Professor of Political Theory and Institutions at Flinders University, Neal Blewett entered Federal Parliament in 1977, as Labor member for Bonython. In 1983 he became Minister for Health in the Hawke government and over the next seven years was the political architect of Medicare, was responsible for the development of Australia's AIDS policies, introduced the first national drugs campaign and worked for a greater emphasis in national health policies on the prevention of diseases. He served later as Minister for Trade and Overseas Development and as Minister for Social Security. Retiring from Parliament in 1994 he became Australian High Commissioner to London in that year, as well as serving between 1995 and 1998 on the Executive Board of the World Health Organisation. In recognition of his services to Australian society he was made a Companion of the Order of Australia in 1995.

## **Review of Food Labelling Law and Policy**

### **Terms of Reference**

#### **Preamble**

The Council of Australian Governments (COAG) has agreed that the Australia and New Zealand Food Regulation Ministerial Council (the Ministerial Council) undertake a comprehensive review of food labelling law and policy using an evidence based approach and without compromising public health and safety. The Ministerial Council has agreed to the review being independent.

In Australia, all three tiers of government have a role in the administration or enforcement of food labelling law. Food labelling policy and standards are also shared with New Zealand under Trans-Tasman treaty arrangements.

Through COAG, all Australian governments have committed to regulatory reform to create a seamless national economy, reduce the regulatory burden without compromising public health and safety and maintain or increase the competitiveness of Australian businesses.

As part of its prevention stream of work in the health policy arena COAG has also agreed to tackle the burden of chronic disease, which raises issues of relevance to the food regulatory system.

#### **Context**

For the purposes of this review, the term “food labelling” includes 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.

Laws with respect to food labelling serve a number of important policy purposes. There are a number of different policy drivers impacting on food labelling laws.

Food labelling supports, among other things, the policy objectives of public health and safety and enabling consumers to make informed choices. Examples of labelling requirements aimed at safety include ‘use by’ dates and requirements for disclosure of allergens. Food labelling provides information designed to inform nutritional choices (nutrition information panels). In some cases, labelling has been used to provide information in response to consumer demand (e.g. labelling of genetically modified foods). Some labelling requirements have been imposed to enable product identification and facilitate traceability.

There are also diverse demands for labelling laws from consumer, public health and food industry stakeholders.

The policy drivers differ for laws imposing mandatory labelling requirements (which are usually sought by consumer or public health stakeholders), or standards creating voluntary labelling permissions (which are usually sought by industry - e.g. to make product claims).

There are tensions between the varying objectives sought to be achieved from food labelling laws by the different stakeholders in the food regulatory system.

Calls are regularly being made for new labelling requirements to address a range of issues of concern to diverse groups within the community. Increasingly these do not relate to the characteristics of the food itself, but are about food production systems or attributes.

However, all food labelling requirements impose costs. Therefore it is important that all food labelling laws –

- (i) are evidence based and effective at achieving their policy purpose;
- (ii) do not impose unjustifiable regulatory burdens on business; and
- (iii) are capable of being enforced in an effective, proportionate and consistent manner.

There is a finite amount of information on labels that people can absorb. Poorly designed labels can confuse rather than assist consumers. There is also a finite amount of information that can reasonably be included on food packaging.

At present, each request for change to food labelling standards is assessed on a case by case basis. There is no process for examining the cumulative burden and cost of incrementally increasing labelling requirements.

There is limited scope within the food regulatory system for innovative approaches to labelling issues. Food regulators currently have a very limited range of enforcement tools which makes proportionate enforcement of labelling requirements difficult to achieve.

A stated objective of food laws is to prevent misleading or deceptive conduct in relation to food. The prevention of misleading or deceptive conduct is also an objective of general consumer protection laws. There is overlap between these two areas of law.

Both business and consumer stakeholders have voiced concern about variation in enforcement of food labelling laws across jurisdictions.

### **Matters for Review**

The review panel will be required to:

1. Examine the policy drivers impacting on demands for food labelling.
2. Consider what should be the role for government in the regulation of food labelling. What principles should guide decisions about government regulatory intervention?
3. Consider what policies and mechanisms are needed to ensure that government plays its optimum role.
4. Consider principles and approaches to achieve compliance with labelling requirements, and appropriate and consistent enforcement.
5. Evaluate current policies, standards and laws relevant to food labelling and existing work on health claims and front of pack labelling against terms of reference 1-4 above.
6. Make recommendations to improve food labelling law and policy.