

Progress Report on the Implementation of the Government Response to the Labelling Logic Recommendations

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'.

FoFR Response: Supports in principle

Progress update: Complete. The Ministerial Policy Statement was completed in 2013 and is available at foodregulation.gov.au.

Recommendation 2:

That food labelling policy be guided by an issues hierarchy in descending order of food safety, preventive health, new technologies and consumer values issues. Regulatory action in relation to food safety, preventive health and new technologies should primarily be initiated by government and referenced in the FSC. 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 FSC. The modes of intervention should be mandatory for food safety; a mixture of mandatory and co-regulation for preventive 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.

FoFR Response: Supports in principle

Progress update: Complete. The Overarching Strategic Statement for the Food Regulation System has been updated to reflect the role of the food labelling issues hierarchy, and is available at foodregulation.gov.au.

A Ministerial Policy Guideline on the Labelling of Food Produced Using New Technology is also available at foodregulation.gov.au.

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.

FoFR Response: Supports in principle

Progress update: Complete. A Food Labelling Monitoring and Enforcement Framework has been developed and adopted incorporating the following links:

- Bi-National Food Labelling Compliance and Enforcement Strategy 2015;
- Australia and New Zealand Food Regulation Enforcement Guideline; and
- the Australian National Audit Office's Better Practice Guide for Administering Regulation (for New Zealand, the Treasury Regulatory Impact Assessment, and the New Zealand Department of Internal Affairs – Achieving Compliance – a Guide for Compliance) .

These documents are available on the Food Regulation website at foodregulation.gov.au

Recommendation 4:

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

FoFR Response: Supports in principle

Progress update: Ongoing. Monitoring of complaints and concerns is continuing, in order to identify and respond to issues 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.

FoFR Response: Supports in principle

Progress update: Complete. The Forum has agreed that a policy statement is not necessary as progress has been made on the presentation of food labels in relation to recommendations 43, 45 and 50. In addition, the Food Standards Code outlines labelling standards in Part 1.2 – Labelling and Other Information Requirements.

Recommendation 6:

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

FoFR Response: Notes and refers to FSANZ

Progress update: Progressing. FSANZ submitted its technical evaluation report and advice on recommendations 6 and 47 to FRSC in May 2015. FRSC agreed to await the outcome of the Consumer Labelling Survey currently being undertaken by FSANZ on consumer perceptions on food labels, to give FRSC the opportunity to provide comprehensive advice to the Forum. FSANZ advises that the outcomes of the survey are expected to be finalised in mid-2016.

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.

FoFR Response: Supports in principle

Progress update: Complete. The Forum has agreed that no further action is required on this recommendation. FSANZ continues to work through the Allergen Collaboration with a broad range of stakeholders (including ISFR) to improve non-regulatory approaches to allergen management. This includes communication and education activities to support enhanced understanding of allergen management across various sectors including food manufacturing, food service and retail. Allergen labelling continues to be a concern for Government as set out in the labelling hierarchy and work will continue to collect and monitor all evidence and make changes to labels as required.

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; and
- 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 Government's preventive health agenda and cognisant of the present Australian initiatives on food security and a national food plan.

FoFR Response: Support

Progress update: Ongoing. The Standing Council on Health supported the development of this policy and it has been referred to the Australian Health Ministers' Advisory Council (AHMAC). To date activities undertaken include:

- the establishment of a National Nutrition Committee (NCC) to oversee, advise on and provide input into the nutrition policy development process;
- the completion of a scoping study by the Queensland University of Technology which included a review of current available evidence to identify current population health issues related to nutrition within the Australian population and any gaps in current policy; and
- holding two facilitated workshops in early 2014, one with key stakeholders and the other with the NCC, to consider and refine the scope of the nutrition policy.

The Government is considering the National Nutrition Policy in line with current health priorities.

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.

FoFR Response: Notes

Progress update: Complete with **Progress update:** Ongoing monitoring. FSANZ to monitor the need for further action as required.

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).

FoFR Response: Notes and refers to FSANZ

Progress update: Progressing. FSANZ is progressing work on a technical evaluation and expects to provide advice to the Forum in late 2016.

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.

FoFR Response: Notes and refers to FSANZ

Progress update: Complete. FSANZ's technical evaluation for recommendation 13 is available here at FoodStandards.gov.au.

Recommendation 14:

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

FoFR Response: Notes and refers to FSANZ

Progress update: Complete. FSANZ's technical evaluation for recommendation 14 is available here at FoodStandards.gov.au.

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.

FoFR Response: Supports in part

Progress update: Complete. This issue was addressed by FSANZ during the development of Standard 1.2.7 – Nutrition, Health and Related Claims.

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.

FoFR Response: Supports in principle

Progress update: Complete. The Forum agreed that no further action is required on this recommendation. Similar work has already been undertaken as part of the development of the Health Star Rating front-of-pack system, as well as via the Food and Health Dialogue.

Recommendation 17:

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.

FoFR Response: Supports

Progress update: Complete. The Forum agreed that no further action is required on this recommendations. FSANZ's technical evaluation for labelling review recommendation 17 is at foodstandards.gov.au.

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.

FoFR Response: Notes

Progress update: Complete. The Forum agreed that no further action is required on this recommendation. FRSC has agreed that jurisdictions that have implemented point of sale nutrition schemes should work together informally to aggregate their data.

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.

FoFR Response: (a) – (c) Supports finalisation of the health claims standard; and (e) On hold see recommendation 50

Progress update: Complete. Standard 1.2.7 – Nutrition, health and Related Claims was gazetted in January 2013, and can be found at foodstandards.gov.au.

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.

FoFR Response: Supports in principle

Progress update: Complete. The Forum agreed that no further action is required on this recommendation. Consultation with IP Australia In November 2013 confirmed that there is no statutory basis for it to scrutinise applications as proposed, except in particularly obvious cases of deceptive or misleading trade mark elements. There are opportunities for review, and revocation of registration under particular circumstances, practical limitations such as the volume of trade mark applications received (including misspelt words or words that are not real) prevent proactive scrutiny (e.g. via electronic searches).

Recommendation 22:

That mandatory messages supporting preventive 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.

FoFR Response: Supports in principle

Progress update: Ongoing. This recommendation will be implemented as required.

Recommendation 23:

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

FoFR Response: Supports in principle

Progress update: Complete. Work to address this issue has been completed by a joint ISFR and Therapeutic Goods Administration (TGA) working group.

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.

FoFR Response: Notes

Progress update: Awaiting advice from the Australian Health Ministers Advisory Council, no active work is underway.

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.

FoFR Response: Notes

Progress update: Complete with ongoing monitoring. Following an independent evaluation of the voluntary labelling initiative in 2014, the Forum noted that the overall percentage of products with a pregnancy health warning label was encouraging, in particular the wine, beer and cider industries, but that there is a wide band of variability across product types. The Forum agreed to extend the existing trial on voluntary uptake of pregnancy health warnings on alcohol product labels, and to undertake a review in two years. The Forum also agreed to continue to work with industry to ensure increased uptake particularly with companies where the uptake is lower such as the ready to drink industry.

Recommendation 26:

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

FoFR Response: Supports in principle, requires further research and cost-benefit analysis.

Progress update: Progressing. FRSC are considering the policy work associated with the cost benefit analysis (CBA) provided by FSANZ to provide advice to the Forum.

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.

FoFR Response: Agrees not to pursue

Progress update: Complete. The Forum agreed that no further action is required on this recommendation. Issues in this recommendation are addressed through the Ministerial Policy Guideline on the labelling of food produced using new technologies (refer to action for recommendation 2).

Recommendation 34:

That the requirement for mandatory labelling of irradiated food be reviewed.

FoFR Response: Supports

Progress update: Progressing. FSANZ has commenced work on assessing the need for mandatory labelling of irradiated food to continue, and expects to undertake public consultation in 2015. FSANZ expects to report to the Forum in late 2016.

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.

FoFR Response: Notes

Progress update: Monitoring. FSANZ is continuing to actively monitor this issue with a view to considering labelling of new technologies as required on a case-by-case basis. See actions for recommendation 2 & 28.

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 Standardisation, Standards Australia or Standards New Zealand.

FoFR Response: Support

Progress update: Complete. The Forum agreed that no further action is required on this recommendation. In response to correspondence from the Forum, the Forum on Consumer Affairs (CAF) advised that it considered the issues of consumer value-based claims during its meeting in December 2012 and agreed that industry is best placed to develop solution in relation to such claims. CAF noted that the low risks to consumers from such claims do not justify government intervention. CAF further advised that governments, through consumer agencies, currently engage proactively with industry to assist them to develop industry initiatives in response to a wide range of issues and the ACCC is working with industry to promote greater awareness of the need for businesses to be truthful when making claims.

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.

FoFR Response: Support in part

Progress update: Complete. The Forum agreed that no further action is required on this recommendation. The high-level regulatory monitoring and enforcement strategy to be developed in response to recommendation 3 will address issues raised in this recommendation. The issues hierarchy (refer to recommendation 2) recognises the importance of industry action in relation to consumer values issues. This framework will be utilised when considering options in future.

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.

FoFR Response: Notes

Progress update: Complete. Details on FSANZ work is available from Labelling review recommendation on country of origin labelling website (www.foodstandards.gov.au/consumer/labelling/review/Pages/Labelling-review-recommendation-on-country-of-origin-labelling.aspx)

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.

FoFR Response: Does not support

Progress update: Complete. The Commonwealth Treasury and the Department of Industry jointly chaired a Commonwealth working group, which first convened in August 2012. The working group also included representatives from the Departments of Agriculture, Health and Foreign Affairs and Trade as well as the ACCC, Australian Customs and Border Protection Service and FSANZ. Following the development and release of consumer guidance material 'Where does your food come from' in 2012, in 2013 the working group developed guidance for industry, including food suppliers, on the operation of the CoOL framework. The guidance was released in April 2014.

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.

FoFR Response: Notes and refers to FSANZ

Progress update: Complete. FSANZ's technical evaluation for labelling review recommendation 43 can be found at foodstandards.gov.au.

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.

FoFR Response: Supports in principle

Progress update: Ongoing. FSANZ to provide advice as required.

Recommendation 47:

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

FoFR Response: Notes and refers to FSANZ

Progress update: Progressing. FSANZ submitted its technical evaluation report and advice on recommendations 6 and 47 to FRSC in May 2015. FRSC agreed to await the outcome of the Consumer Labelling Survey currently being undertaken by FSANZ on consumer perceptions on food labels, to give FRSC the opportunity to provide comprehensive advice to the Forum. FSANZ advises that the outcomes of the survey are expected to be finalised in mid-2016.

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.

FoFR Response: Supports in principle

Progress update: Ongoing. FSANZ to provide advice on any guidelines developed by industry as required.

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.

FoFR Response: Notes

Progress update: Complete. The Forum agreed that no further action is required on this recommendation. The high-level regulatory monitoring and enforcement strategy to be developed in response to recommendation 3 will address monitoring of the labelling standards in the Food Standards Code.

Recommendation 50:

That an interpretive front-of-pack labelling system be developed that is reflective of a comprehensive Nutrition Policy and agreed public health priorities.

FoFR Response: Support

Progress update: Progressing. On 14 June 2013 the Forum agreed to the voluntary implementation of the HSR system over 5 years, with a review of implementation after 2 years. Health Star Ratings have started to appear on food products and a social media campaign will commence in late 2014 or early 2015. Key documents for the implementation of the HSR system, as well as the business case for the voluntary implementation of the HSR system, are available online at Health.gov.au.

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.

FoFR Response: On hold

Progress update: Complete. The Forum agreed that no further action is required on this recommendation. The Health Star Rating system developed in response to recommendation 50 supersedes this recommendation.

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.

FoFR Response: On hold

Progress update: Complete. The Forum agreed that no further action is required on this recommendation. The Health Star Rating system developed in response to recommendation 50 supersedes this recommendation. The Health Star Rating system will include a calculator for industry, communication strategy and consumer education.

Recommendation 53:

That **Progress update:** 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.

FoFR Response: On hold

Progress update: Complete. The Forum agreed that no further action is required on this recommendation. The Health Star Rating system developed in response to recommendation 50 supersedes this recommendation. An evaluation of the system will be undertaken after two years to assess whether a voluntary implementation approach is successful.

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.

FoFR Response: On hold

Progress update: Complete. The Forum agreed that no further action is required on this recommendation, recognising that progress has been made on point-of-sale nutrition schemes.

Recommendation 55:

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

FoFR Response: On hold

Progress update: Complete. The Forum agreed that no further action is required on this recommendation. The Health Star Rating system developed in response to recommendation 50 supersedes this recommendation.

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.

FoFR Response: Supports in principle

Progress update: Complete. A Food Labelling Monitoring and Enforcement Framework has been developed and adopted incorporating: Bi-National Food Labelling Compliance and Enforcement Strategy 2015 Australia and New Zealand Food Regulation Enforcement Guideline; and the Australian National Audit Office's Better Practice Guide for Administering Regulation (for New Zealand, the Treasury Regulatory Impact Assessment, and the New Zealand Department of Internal Affairs – Achieving Compliance – a Guide for Compliance). These documents are available on the [Food Regulation website](#).

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.

FoFR Response: Support

Progress update: Complete. A Food Labelling Monitoring and Enforcement Framework has been developed and adopted incorporating:

- Bi-National Food Labelling Compliance and Enforcement Strategy 2015
- Australia and New Zealand Food Regulation Enforcement Guideline; and
- the Australian National Audit Office's Better Practice Guide for Administering Regulation (for New Zealand, the Treasury Regulatory Impact Assessment, and the New Zealand Department of Internal Affairs – Achieving Compliance – a Guide for Compliance) .

These documents are available on the [Food Regulation website](#).

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.

FoFR Response: Support

Progress update: Complete. The Food Standards Code has been revised to improve clarity and legal efficacy, with amendments taking effect 1 March 2016.

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; &
- g. monitor consumer values issues claims on labels and liaise with consumer protection agencies in relation to confusing, misleading or deceptive food labelling.

FoFR Response: Does not support

Progress update: Ongoing in relation to general education about food labelling issues and requirements. Work is ongoing by FSANZ to contribute to achieving function 'c' of this recommendation.