Submission to the Council of Australian Governments (COAG)
on the
Issues Consultation Paper: Review of Food Labelling Law and Policy
on behalf of
The Royal Australasian College of Physicians

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To the Chair of the Review Panel

Re: The Issues Consultation Paper: Review of Food Labelling Law and Policy

Thank you for inviting the Royal Australasian College of Physicians (RACP) to respond to the Council of Australian Governments (COAG) Issues Consultation Paper: Review of Food Labelling Law and Policy as instigated but the Council of Australian Governments (COAG) and the Australia and New Zealand Food Regulation Ministerial Council (Ministerial Council).

The College is pleased to see such a comprehensive and far-reaching review taking place on food labelling. The inactivity and ineffectiveness of Food Standards Australia New Zealand in matters pertaining to population health concerns in particular, but also more generally in regards to their seeming inability to regulate the food industry, has long been a cause for concern.

We sincerely hope to see some decisive changes to food labelling in Australia and New Zealand as an outcome of this review.

The Royal Australasian College of Physicians
The Royal Australasian College of Physicians (RACP) is a Fellowship of more than 10,500 specialist physicians and 4,000 trainees who practise in more than 25 medical specialties including paediatrics, cardiology, respiratory medicine, neurology, oncology, public health medicine, occupational and environmental medicine, rehabilitation medicine, palliative medicine, sexual health medicine and addiction medicine. Beyond the drive for medical excellence, the RACP is committed to developing health and social policies which bring vital improvements to the wellbeing of patients. The College works to establish and achieve the highest standards of contemporary knowledge and skill in the practice of medicine and promote the health and well being of the community and of its members. The College, in collaboration with affiliated specialty societies, is the provider of frameworks and standards of education for specialist physicians and trainees.

Q1. To what extent should the food regulatory system be used to meet broader public health objectives?
The food regulatory system should be considered a vital part of meeting broader public health objectives.

Currently, the food regulatory systems play an important role in ensuring the public is protected from contamination, poisoning or infection of foods. However, this is just one aspect of FSANZ’s stated top objective ‘the protection of public health and safety’. Further to this, the issues in labelling related to broader public health, fall into all three of the FSANZ priorities. These objectives, listed in their descending priority order, are listed as follows:

(a) the protection of public health and safety;
(b) the provision of adequate information relating to food to enable consumers to make informed choices; and
(c) the prevention of misleading or deceptive conduct.
We would argue that using labelling to convey clear, honest, easy-to-interpret information to the public about the nutritive content of food, particularly in regards to facilitating healthier eating, is a key factor for meeting all of the above objectives, and should be given appropriate prominence.

The food regulatory system has an important role in relation to chronic diseases. Poor nutrition and high body mass index are two of the major risk factors for burden of disease within Australia and New Zealand. Poor nutrition (including a high intake of salt, saturated fats and refined sugars; and a low intake of fruit and vegetables) and/or obesity are significant contributors to a range of chronic diseases in Australia, including type 2 diabetes mellitus, cardiovascular disease, hypertension, stroke, dental caries and several cancers. In Western Australia, high body mass has now overtaken tobacco as the leading preventable cause of disease. Changes in the population’s dietary intake would lead to major changes in the prevalence of these diseases. Food regulatory systems can be used to influence both consumer food choices, providing them with the means to make informed decisions about what they and their family eat, and industry formulation of foods.

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

Food labelling needs to be directed primarily to consumers with low health/nutrition literacy. Information in other forms or locations (eg websites, brochures, point of sale signage) will NOT be accessed by the majority of consumers, and particularly those who have the lowest health literacy. This includes consumers with lower educational attainment and for whom English is a second language – these groups also happen to be those who are most at risk for chronic disease.

People with low health literacy are by no means a minority. The New Zealand 2006 Adult literacy and life skills survey found New Zealanders to have, on average, poor health literacy skills. This is even more pronounced in indigenous groups with four out of five Māori males and three out of four Māori females having poor health literacy skills 1. Similarly the Australian 2006 Adult Literacy and Life Skills Survey showed that the majority of Australians (60% men, and 59% women) had poor health literacy (levels 1 or 2). 2

Alongside the existing labelling requirements, the College advocates for the introduction of:

- Traffic-light labelling for the 4 key nutrients of salt, total fat, saturated and sugars;
- Labelling of trans fatty acid content; and,
- Differentiation of palm oil from vegetable oil.

Core information needs to be present on the food label, in a form that is able to be read easily by the vast majority of consumers. Evidence has shown that the traffic-light system of food labelling is the most suitable for conveying important information in a clear, accessible format – improving access to nutritional information across consumers, including those in lower socio-economic groups, indigenous peoples, poor readers, non-English speakers, and those with poor eyesight 3. The College has developed an evidence based policy statement

2 Australian Bureau of Statistics 2008, Health literacy, Australia 4233.0. Canberra ABS
3 Royal Australasian College of Physicians 2009 the case for traffic light labelling Sydney, RACP
with outlines the case for traffic-light labelling. This is enclosed as an appendix to this submission.

Consumption of trans fatty acids have been shown to greatly increase the risk of cardiovascular disease \(^4\). In recognition of the negative impact of this product on health, many countries have introduced labelling, made moves to reduce it in products (especially in fast food) or outright banned it. The College would like to see the removal of all unnecessary trans fatty acids from food products – including those sold in restaurants and cafes. This is not in the remit of this review however, but the review can take us on a crucial step towards this - the College therefore advocates for the inclusion of information on trans fatty acid content on food labels in the interim. The public should be able to access the information they need to make informed choices about the products that are on sale to them, particularly where those products contain potentially dangerous levels of a product.

Given the dramatic environmental effect of palm oil cultivation, particularly the potential extinction of orang-utans, the College supports the call to specifically label the use of palm oil in products, thus allowing consumers to drive a market for proper certified sustainable palm oil because they can demand it of manufacturers.

*The College also advocates for the removal of health claims from processed food and beverage products.*

Such claims are often counter-productive to public health efforts to encourage greater consumption of fruits and vegetables and limit intake of those nutrients which should be restricted or minimised in a healthy diet, i.e. fats, sugars, sodium. They are little more than marketing messages, which potentially mislead consumers about the health benefits of individual products. The presence of health claims often facilitates a more energy-dense option being seen as a healthy option by utility of (possibly spurious) claims for health benefits related to additional nutrients. A 2006 report by the South Australia Department of Health found that the majority of health claims made could be misleading \(^5\). People are misled by health claims made on products, even when supported by back of pack nutritional information panels containing contrary information. \(^6\) Current regulations and industry self-regulation have not prevented misleading messages being put on products. In fact there has been proliferation of such claims over recent years, indicating a need for better regulation and enforcement.

This position was expanded on in the College’s evidence-based submission to FSANZ on the Proposal P293: Nutrition, health & related claims Consultation paper. This submission is enclosed as an appendix to this submission.

**Q3. How can accurate and consistent labelling be ensured?**

Accurate and consistent labelling can only occur if food labelling is regulated by national governments, rather than if it is a food industry-led initiative. The latter strategy may readily lead to an inconsistent and confusing use of food labels, the exclusion of certain foods from

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\(^5\) Cammans, J. *Pilot survey of nutrition, health and related claims in South Australia*, South Australia: Department of Health. 2006


food labelling and the inconsistent use of some terms (eg “light”, “lite”, “low in fat”, “low salt”, and so on). Rules need to be set, and terms protected, across both countries, to ensure accuracy and consistency.

Q4. What principles should guide decisions about government intervention on food labelling?
Some of the principles that should guide government decisions include:
- The issue of equity – ensuring that the most disadvantaged Australians are supported in making healthy decisions about foods;
- Consideration of the long-term cost of chronic disease to the Australian community against the shorter-term costs of implementation of a new food labelling policy; and
- Ensuring that the healthy choices for food are made the easier choices.

Q5. What criteria should determine the appropriate tools for intervention?
Historical experience, consumer views and the latest evidence, should determine what type of intervention is necessary. To date, voluntary codes of practice and industry self-regulation have proven largely ineffective in regards to modifying the high fat, sugar and salt intake of Australians and New Zealanders. Community education approaches around healthy lifestyle have also largely been ineffective, especially if the healthy choices are not also made easier.

Only with mandatory regulation will there be large-scale changes towards healthier food formulation and production. Such regulation will also have the benefit of providing a level playing field for the different players within the food industry, with consistent universal rules to work within.

Q6. Is this a satisfactory spectrum for labelling requirements?
We would suggest that restaurant chains should also provide detailed nutritional information (including trans fatty acid content) on foods within their menus.

Q7. In what ways could these misunderstandings and disagreements be overcome?
Clear, simple, uniform messages and symbols should be designated for use. These should be subject to appropriate consumer testing to assess ease of use and understanding across groups.

Q8. In what ways can food labelling be used to support health promotion initiatives?
Food labelling can be used to provide clear, easy-to-read messages about key food components such as fat, sugar, salt and energy content. Clear food labelling can help consumers make healthier choices about food intake. This is especially the case if food labelling is developed so that it communicates to those consumers with low health and nutrition literacy. As noted above, traffic-light labelling has been shown to best enable communication to these groups.

Mandatory food labelling in a competitive food industry will also drive changes in product formulation and production. If easy-to-read information on salt, sugar, fat and saturated fat content is made mandatory on labelling, then consumers may tend to choose those foods which are clearly designated as having lower levels of these food components. This may motivate the food industry to look at re-formulating products, to match the healthier alternatives and to avoid any perceived negativity that may arise from the presence of clear information on the nutrient content of unhealthier products.

Q9. In what ways can disclosure of ingredients be improved?
As noted under question 2 – the College supports the addition to labels of levels of both trans fatty acid and palm oil contents. In the interests of consumer accessibility, these should be represented by their generic name, i.e. the name which the majority of consumers will recognise and understand.

Q10. To what extent should health claims that can be objectively supported by evidence be permitted?
At present there are a number of spurious health claims made on some foods. The key will be in ensuring that health claims are backed by evidence, and that there is some regulation on what health claims can be made. Consumer-friendly information about some key food components (e.g. calcium for healthy bones) makes sense, though it can be damaging where food stuffs with high levels of fats, sugars or salt make health claims which may counteract any perceived benefit.

As noted above, the College’s submission to FSANZ on Proposal P293 is provided as an appendix.

It is further noted that any claim made with specific reference to a medical benefit should not be permitted unless it has undergone the same rigorous checks that a medicine making such a claim would have to go through, e.g. reduces cholesterol, would need to go through the same level of control as a medication would face. At present, foods can carry these claims without actually having to do anything.

Q11. What are the practical implications and consequences of aligning the regulations relating to health claims on foods and complementary medicine products?
The College would like to see better regulation that includes evidence based quality assurance principles on all labelling of complementary medicine products. A scheme that is easy to understand and can be interpreted clearly such as a “green tick” that suggests the product has undergone a quality assurance accredited approval process.

Q12. Should specific health warnings (e.g., high level of sodium or saturated fat per serve) and related health consequences be required?
As the consultation paper rightly points out, there is misleading labelling of some foods e.g. labelling for low fat, when the product is high in sugar and energy. It is felt that all health claims could be removed, or else there should be the provision of specific health warnings to counter-balance the misleading labelling. The use of a traffic-light system of food labelling would be one way of ensuring that this information is provided in an easy-to-read format. It is also a possibility that if a product has a ‘red’ light, it will be deemed ineligible for a health claim – thus providing further motivation for industry to consider the reformulation of products.

Q13. To what extent should the labelling requirements of the Food Standards Code address additional consumer-related concerns, with no immediate public health and safety impact?
Though not necessarily on the label, where space is limited, there should be an onus on the industry to make information, such as that suggested in the consultation document in section 3.11, available at another source – most likely the organisation / product website.

Q14. What criteria should be used to determine the inclusion of specific types of information?
The RACP has no specific comment on this issue, aside from cautioning against the pressure to be reactionary. Focus should be on those issues where there is widespread ethical concern in the wider population, or immediate danger to smaller populations.

Q15. What criteria should determine which, if any, foods are required to have country of origin labelling?
The RACP has no specific comment on this issue, aside from whatever criteria is chosen, it should be consistent across Australia and New Zealand.

Q16. How can confusion over this terminology in relation to food be resolved?
The RACP has no specific comment on this issue. A consumer advocacy group, such as Choice in Australia, is likely to be best placed to advise on consumer need.

Q17. Is there a need to establish agreed definitions of terms such as ‘natural’, ‘lite’, ‘organic’, ‘free range’, ‘virgin’ (as regards olive oil), ‘kosher’ or ‘halal’? If so, should these definitions be included or referenced in the Food Standards?
As previously mentioned, there are a range of terms, such as “lite”, which are used on food labels in ways that confuse the consumer. We recommend that this term, plus the others mentioned in the consultation paper (kosher, halal, natural, organic, free range, virgin etc) be defined and protected in the Food Standards Code, and only permitted for use if the universal criteria (set by the relevant experts) are met. Only by these means can consumers be confident in what these terms on the products they buy actually mean.

Q18. What criteria should be used to determine the legitimacy of such information claims for the food label?
The College would like to see better regulation that includes a quality assurance process on the legitimacy of the labelling of products. A scheme that is easy to understand and can be interpreted clearly such as a “green tick” that suggests the product has undergone a quality assurance accredited approval process.

Q19 In what ways can information disclosure about the use of these technological developments in food production be improved given the available state of scientific knowledge, manufacturing processes involved and detection levels?
The RACP has no specific comment on this issue.

Q20. Should alcohol products be regulated as a food? If so, should alcohol products have the same labelling requirements as other foods (i.e., nutrition panels and list of ingredients)? If not, how should alcohol products be regulated?
Alcohol is not an ordinary food commodity and so requires different labelling considerations to other foods. There should be some labelling requirements that are similar to those for other food products, so that consumers can make an informed choice about using or consuming a particular product, but, its nature as a psycho-active substance with the potential to cause considerable harm, requires additional measures.

There are two distinct “classes” of alcohol products which must be viewed differently: those well known as alcoholic beverages such as beer, wines and spirits, and other food products which contain alcohol, often in high concentrations such as vanilla essence and essence of lemon.

**Alcoholic beverages.**

*Standard Drink labels*
Standard drink labelling as currently occurs should continue. This should apply to all beverages of 0.5% and above. Any beverage containing 0.5% or more of alcohol should not be labelled as “non alcoholic” or “non-intoxicating”.

**General Health Warning labels.**
There is as yet no direct evidence of a health benefit associated with health warning labels on alcoholic beverages. There is reasonable evidence and experience of a benefit with tobacco warning labels. It is plausible that similar labelling of alcoholic beverages could contribute to reducing harmful consumption of alcohol.

However, precautionary advice could be provided concerning safe and hazardous levels of alcohol consumption, such as:
- Referring to the NHMRC alcohol consumption guidelines of an average consumption of 2 standard drinks per day and no more than 4 on a single occasion;
- Referring to the very broad range of medical conditions and injuries for which alcohol is known to be causative;
- Providing advice to pregnant women that abstention from alcohol during pregnancy is the safest course of action.

**“Light” alcohol products**
There should be clear criteria for the naming of products as “light”. For example, light beers can only be named as such if their alcohol content is 2% or less.

**Calorie content**
Alcohol is an energy dense material and many alcoholic beverages have very high calorie contents. In recent times, so-called “low-carb” beer has become popular due to the notion that it contains fewer calories and therefore is perceived as less likely to contribute to weight gain and so might be a “healthier” beer to drink. However, there is potential for confusion and misunderstanding with these products:
- Between “low carb” and “low alcohol” beers in thinking a low carb beer contains less alcohol;
- Assuming “low carb” means lower calories when in fact this is not always the case. Most mid-strength beers have lower calorie content than “low carb” beers and there is very little calorie difference between some “normal” beers and “low carb” beers.

It is therefore important that ALL alcoholic beverages have their calorie or energy content clearly labelled. There should also be clear criteria based on calorie content for what can be labelled as a “low carb” beverage.

**Allergens, preservatives etc**
As for all food products, alcoholic beverages should be labelled if they contain allergens, preservatives etc.

**Nature of the labelling**

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8 National Health and Medical Research Council (2009) Australian Guidelines to Reduce Health Risks from Drinking Alcohol, National Health and Medical Research Council, Canberra
Any labelling of alcoholic beverages should be clear, in plain language, of a size that is easy to read and placed on the front of the label. There is a literature concerning measures that can be taken to enhance the noticeability of such labels.\(^\text{10}\)

**Food products containing alcohol**

As concerns this second category of product, they are well known to be misused at times for their intoxicating effect, particularly by young people, at times with catastrophic consequences. All such “food products” (e.g. vanilla essence) which contain more than 3% by volume of alcohol, should have the alcohol content on the label, AND contain a warning that consumption other than in very small amounts in cooking could lead to intoxication and potentially negative consequences.

Q21. Should minimum font sizes be specified for all wording?
The RACP has no specific comment on this issue.

Q22. Are there ways of objectively testing legibility and readability? To what extent should objective testing be required?
The RACP has no specific comment on this issue.

Q23. How best can the information on food labels be arranged to balance the presentation of a range of information while minimising information overload?
The traffic-light system of food labelling, as widely used in the UK, and as used to inform food choices for school canteens in Australia, should be adapted for use in the broader Australian and New Zealand food industry setting. Information given to consumers must be clear and easy-to-read. As mentioned above, the College’s evidence based recommendations for this are in the enclosed position statement.

Q24. In what ways can consumers be best informed to maximise their understanding of the terms and figures used on food labels?
Considerable evidence exists which looks at ways of increasing consumer understanding. For example, in terms of nutrient labelling, traffic-light labelling has consistently proven to have the best outcomes for consumer understanding.

Q25. What is an appropriate role for government in relation to use of pictorial icons on food labels?
The consultation paper rightly points out the usefulness of pictorial icons that are well-defined, consistently used and well-publicised. Government can play a vital role in ensuring standards for use and a level playing field for the food industry.

Q26. What objectives should inform decisions relevant to the format of front-of-pack labelling?
Front-of-pack labelling should aim primarily at informing consumers. The evidence suggests that percentage daily intake (%DI) does not do this as well as traffic-light labelling. This is particularly true in terms of communicating necessary information to parents for their children. Children may have very different fat, sugar, salt and energy requirements from the average 70 kg man (which is the standard), and therefore %DI will inevitably be very misleading. However, a traffic-light system is likely to be far more informative.

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Childhood is the period of life when healthy nutrition is most critical for health. Hence, the importance of providing accurate information to parents about what their child is eating.

There is evidence that %DI labels assist consumers in planning a balanced diet, but this is counterbalanced by evidence that consumers find the data too complex, and many feel it involves too much calculation - which they are either not interested in doing, or unable to do. Research indicates that the inclusion of %DI on labels does not necessarily increase consumer understanding of health values of products over the mandatory NIP labelling.

Along with the lack of consistency and comparability between products which comes from the voluntary status of %DI labelling, the main problem is that the nature of %DI implies that there is a goal of 100% to achieve for a given nutrient, whereas actually more often the goal is to limit intake. The %DI system does not distinguish or clarify the difference between acceptable and aspirational amounts of a nutrient, as this varies based on the nutrient, e.g. with saturated fat, which is to be minimised in a diet, the %DI is not a goal but an absolute limit, whereas with energy 100% %DI may be an optimal amount to be reached.

Q27. What is the case for food label information to be provided on foods prepared and consumed in commercial (e.g., restaurants, take away shops) or institutional (schools, preschools, worksites) premises? If there is a case, what information would be considered essential?
Restaurant chains and larger institutional premises should also provide the same sort of information - in menus, at point of sale, and/or on the packaged foods – as with packaged foods sold elsewhere.

Q28. To what degree should the Food Standards Code address food advertising?
Food advertising – and food marketing more generally – has a major influence on food sales and food choices within Australia. This area is currently poorly regulated. Children in particular require greater protection from the marketing of unhealthy foods, for example, on television, the internet, and via sponsorship.

The College is currently developing a position statement on the need for legislation to ban televised marketing of junk food to children. It is argued that regulated action is needed now, given that self-regulation has already failed to be effective. It is advocated that the marketing of energy dense-nutrient poor foods and beverages should be restricted before 9pm (i.e. during the times the highest numbers of children are watching television) and that food should be assessed for eligibility on pre-determined criteria, similar to that used in the UK by the Food Standards Agency.

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

Q30. In what ways can consistency, especially within Australia, in the enforcement of

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12 European Food Information Council (EUFIC) (2005) Consumer attitudes to nutrition information & food labelling.
food labelling standards be improved?

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

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

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

Questions 29-33 relate to administering and enforcing food labelling standards. The College has no specific comments on these questions.

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

It is very important that Governments take the prime responsibility for developing and administering food labelling regulations. Industry self-regulation has not, and will not, lead to changes to healthier food product formulation. The innate conflict of interest involved in self-regulating the promotion of the products that it is your business to sell makes self-regulation highly unlikely to be implemented effectively - public health and consumer interests are unlikely to be placed above corporate profitability. The industry cannot be depended on, nor realistically expected, to operate with a primary interest in public health – that is the role of the government.

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

As stated above, the College does not think that self-regulation or co-regulation are appropriate options.

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

The RACP has no specific comment on this issue.

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

Refer to Question 10

Foods should not make health claims beyond providing the amount of a food component and putting it in context of daily intake. Any substance making a health or therapeutic claim should be treated as a medicine, have accessible evidence and be subject to regulatory oversight. Any substance capable of providing therapeutic benefit is also capable of harm.

Q38. What are the strengths and weaknesses of having different approaches to the enforcement of food labelling standards for imported versus domestically produced foods?
The RACP has no specific comment on this issue.

Q39. Should food imported through New Zealand be subject to the same AQIS inspection requirements?
The RACP has no specific comment on this issue.