

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.