

Policy Guidance for Menu Labelling in Australia and New Zealand

**Response to consultation
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Recipient


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About Dietitians Australia

Dietitians Australia is the national association of the dietetic profession with over 7500 members, and branches in each state and territory. Dietitians Australia is the leading voice in nutrition and dietetics and advocates for food and nutrition for healthier people and healthier communities. Dietitians Australia appreciates the opportunity to provide feedback FSANZ regarding the draft regulation impact statement on policy guidance for menu labelling in Australia and New Zealand.

The Accredited Practising Dietitian (APD) program provides an assurance of safety and quality and is the foundation of self-regulation of the dietetic profession in Australia. Accredited Practising Dietitians have an important role in the food system to support consumers in making healthy food choices and companies with product formulation, marketing, consumer education and compliance.

This submission was prepared by members of the Dietitians Australia Food Regulatory and Policy Committee following the [Conflict of Interest Management Policy](#) and process approved by the Board of Dietitians Australia. Contributors include Dietitians Australia members with wide ranging expertise in areas including public health, food systems, food industry and academia.

Discussion

Menu Labelling in New Zealand

1. Is your business voluntarily displaying energy information in New Zealand?

Not applicable.

2. Does your New Zealand business sell standard food items and is it a chain?

Not applicable.

3. Is it a problem for New Zealand consumers that energy information is not mandated at the point-of-sale?

Not applicable.

Problems associated with menu labelling

4. Do these differences between states and territories create problems for Australian businesses?

Dietitians Australia cannot comment on the experiences of Australian businesses. We strongly recommend that public health be prioritised above commercial interests.

5. Do these differences impact Australian consumers?

Different menu labelling systems across Australia expose consumers to confusion and leave some Australians behind, without access to nutrition information and missing out on health benefits.

Retail food outlets in states without menu labelling legislation give consumers less or inconsistent nutrition information compared with those in states that do have legislation. Outlets that operate in multiple states may choose to adopt a certain menu labelling system across states that do not have that system. For example, a food court in a Tasmanian shopping centre could have four outlets in a row each using a different kilojoule labelling system – one each from Victoria, New South Wales and Queensland, right next to outlets using no kilojoule labelling as it is not required in Tasmania. This is

confusing for consumers living in states with no kilojoule menu labelling system, or regularly traveling between states with different systems.

Another area of inconsistency between the states is kilojoule labelling of alcohol products that are standard menu items. Some states require labelling for alcohol products while others do not. Alcohol products can be high in kilojoules and should be included in any national labelling scheme. Failure to provide this information compromises consumer ability to compare options. A 2021 rapid systematic review and meta-analysis found that consumers are not aware of the kilojoule content of alcohol products.¹ FSANZ's ongoing review of energy labelling on alcohol products has found similar conclusions.

6. Is the uneven playing field with respect to menu labelling requirements a problem for standard food outlets in Australia?

Dietitians Australia cannot comment on the experiences of Australian businesses. We strongly recommend that public health be prioritised above commercial interests.

7. Is it a problem for Australian consumers that energy information is not at the point-of-sale in all businesses selling standard food items?

Failing to provide energy information at point of sale makes it considerably more difficult for consumers to compare food options. In some settings where there are multiple retail food outlets in one space (eg food court), consumers may not be provided enough information from various outlets to allow them to compare the food options available. It also means that other venues such as convenience stores and cinemas do not give consumers enough information to compare food options. This is particularly concerning in venues selling large portion sizes or multi-serve items (eg soft drinks and popcorn in cinemas).

Consistent and comprehensive uptake of labelling also helps with consumer awareness as the more places that consumers see this information, the more likely they are to recognise it and understand the information it provides. A comprehensive uptake also supports any education and social marketing campaigns.

We also note that, while out of scope of this consultation, allergen labelling at point of sale is inconsistent across jurisdictions, presenting a great risk to public health and food safety. Allergic reactions to foods not prepared in the home are common.²⁻⁴ The United Kingdom has recently introduced new allergen information laws that apply to packaged foods, standard food outlets and 'distance selling' (eg online, food delivery apps).⁵ We recommend that FSANZ explore allergen labelling on menus at point of sale alongside this kilojoule menu labelling work.

8. Are there other business types that are selling standard food items in Australia or New Zealand?

Yes. We have identified three business types selling standard food items that are not included in Appendix 3 and should be added.

- Food delivery apps that aggregate data and are the point of sale for standard food items from various outlets. For example, UberEats, Deliveroo, EASI and Menulog. A consumer walking into a brick-and-mortar shopfront may have access to kilojoule labelling at point-of-sale, while a consumer ordering the same food on a food delivery app does not.
- Franchise entertainment venues that have canteens or kiosks providing standard item food and drinks across locations. For example, children's play centres, arcades, indoor rock-climbing venues.
- Meal kit services that provide standard food items. For example, Hello Fresh, Marley Spoon and My Food Bag.

- Home-delivered ready-meal services that provide standard food items. For example, My Muscle Chef, You Foodz, Macros and Soulara.

Emerging business types should be evaluated on a regular basis to ensure that if they are selling standard food items they are included in the regulations.

9. What, if any, other new ways of promoting, offering, and selling standard food items have emerged since 2011, or are likely to emerge in the future and are not covered in this document?

Food delivery apps that aggregate data and are the point of sale for standard food items from outlets have risen in popularity⁶ (eg UberEats, Deliveroo, EASI, Menulog). Standard food items marketed and sold on food delivery apps are overwhelmingly energy-dense and nutrient-poor.^{7,8} The technical capabilities of these apps to implement kilojoule labelling is high, and many outlets would have the nutritional information readily available to input into apps as the point of sale.

Customisable meals made from standard food items are increasing in popularity. For example, a build-your-own poke bowl with optional combinations of 200g cooked brown rice, 60g grilled chicken, 60g cured salmon, 60g shredded beef, 60g cucumber, 60g shaved raw carrot, 60g avocado, 30g edamame beans. The components that consumers can select are standard items the outlet would have nutrition information for and could display at point of sale.

Pop-up or mobile outlets that are point of sale for standard food items are growing in popularity. This is particularly true for vendors selling standard alcohol products who have stalls or vans at markets or festivals. For example Bentspoke Brewing Co. lakeside pop-up⁹ and festival garden.¹⁰ These business types should be covered by the same regulations as brick-and-mortar outlets.

10. Is it a problem for consumers when energy information is not available for all menu items and/or on all ordering platforms and menu infrastructure?

Yes. Menu items, ordering platforms and menu infrastructure that don't provide energy information fail to give consumers enough information to compare food options. Food and drinks are often higher in energy than people estimate, particularly energy-dense fast foods.^{11,12} Consumers may underestimate the impact foods eaten out have on their daily intakes if they cannot access the information at the point-of-sale.

11. Has the increased use of different menu infrastructure and online platforms changed the cost of implementing menu labelling in Australia?

We strongly suggest that the cost of menu infrastructure and online platforms should not come at the expense of public health objectives. It is critical that kilojoule information is presented at all points of sale, whether they are digital or physical. Kilojoules could be added to digital or online menus or incorporated into regular website updates for little cost.

12. Do you agree with the overall statement of the problem presented (section 2, 2.1-2.3)?

Yes. Dietitians Australia believes the statement adequately presents the problems with current approaches to menu labelling.

13. Do you agree that this problem requires government intervention?

Yes.

The current voluntary approach has resulted in inconsistencies between the states in terms of what is covered in the legislation and the lack of adoption overall in other states. Government regulation is needed so that rules exist in all states and territories and are consistent across the country.

Dietitians Australia believes that government intervention through a policy guideline to inform the Food Standards Code would create a consistent approach across all states and territories that supports the health and wellbeing of Australians and New Zealanders. The existence of national Principles does not guarantee that states will implement them as intended. Therefore, simply updating the Principles will not be effective. Similarly, allowing voluntary industry action may lead to a reduced number of standard food outlets participating in menu labelling and result in less information being available for consumers.

The guidelines should include consistent presentation of kilojoule information. For example, the Queensland legislation has requirements about contrast and background colour. Implementation of the accessibility requirements for signage as set out in the National Construction Code would ensure best practice.

Lack of information is not acceptable to consumers, with over 70% of the public supporting menu labelling.¹³⁻¹⁵

Government intervention will create a more even playing field for food businesses, and ensure consumers' needs for information are being met.

Objectives

14. Do you agree with the proposed objectives?

We agree with the proposed objectives and recommend a fourth is added: public health is considered in all regulatory aspects of menu labelling to ensure that commercial profits are not prioritised at the expense of public health.

Options

15. Are the proposed options appropriate to address the stated problem and achieve the proposed objectives?

Option 3 is the only reform proposal that addresses the problem statement (s2) and objectives (s3). The other options, while proposing some change, do not meet the problem statement and objectives.

Further, we strongly support pursuing complementary strategies. Kilojoule menu labelling is most likely to result in positive health outcomes when complemented by social marketing, education, and labelling of nutrients of concern like saturated fat and salt.¹⁶ Consumer education and social marketing should be thoroughly consumer-tested to ensure they are useful, well understood and empower consumers to use the information provided to compare food options.

Impact analysis

16. Would your business incur higher implementation costs if legislative changes were not timely and uniform across all jurisdictions?

Not applicable.

17a. Are the benefits and costs associated with the four proposed options and the complementary strategies accurate?

Standard food outlets regularly refresh menu boards for commercial reasons. Any costs associated with changing menu boards would likely be absorbed by regular updating costs.

Kilojoule menu labelling is a public health measure. Public health measures have economic and health costs and benefits, such as improved quality of life, productivity, and long-term health gains. These are briefly discussed in the background material of the consultation paper but have not been stated when considering reform options. The consultation paper is missing information on a wide range of benefits. Of particular note, recent analysis of the economic, social and health costs of overweight and obesity in the 52 OECD countries which found menu labelling interventions to be one of the two most effective interventions.¹⁷

Economic modelling in the US shows that menu labelling legislation was estimated to prevent 31,300 new cancer cases and 18,700 cancer deaths, resulting in an increase of 134,000 quality-adjusted life years (QALYs) over a lifetime.¹⁸ An analysis conducted by the OECD also reported an avoidance of 1,900 new cancer cases each year in each country included in the modelling (including Australia).¹⁷ Similar figures were noted for other chronic diseases: prevention of 135,781 new cardiovascular disease cases 99,736 type 2 diabetes cases, and gaining 367,450 additional QALYs.¹⁹ When considering the cost effectiveness (adjusted for implementation and healthcare costs), implementing menu labelling had a net \$1.74 billion USD cost saving.¹⁸ Another study estimated that menu labelling represented a lifetime cost saving of \$10.42 billion USD on healthcare alone.¹⁹

It is imperative that seeking to minimise any economic costs to businesses should not be prioritised at the expense of protecting public health.

17b. Are there any other benefits, costs or unintended consequences which have not been identified above?

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18. Are the average annual regulatory costs representative of the costs incurred/likely to be incurred by your business?

Not applicable.

19. If the regulatory costs outlined above do not represent the costs incurred /likely to be incurred by your business, what are / would be the costs per year to comply with the proposed changes to menu labelling regulation?

Not applicable.

20a. Would your Australian business be likely to meet the proposed definition of a standard food outlet?

Not applicable.

20b. If not, is the reason because you do not sell standard food items, do not meet the business size threshold, or do not operate as a chain?

Not applicable.

Preferred option

21. What is your preferred option and why?

Dietitians Australia supports Option 3.

Option 3 would result in the most consumers being able to access information needed to compare food options, as well as being the most equitable approach.

Option 1 is inconsistent across Australia and does not provide a level playing field. For instance, in WA, a recommendation to come out of the 2017 Preventive Health Summit was to implement a menu labelling scheme, however progress has stalled while WA waits on the outcome of the National consultation.

Option 2 in effect it is no different to the status quo. While updated national Principles are welcome, under option 2 jurisdictions can still choose to disregard the national Principles. This will have minimal impact on consumers' abilities to compare food options when eating out. It also places no responsibility on standard food outlets to comply or to provide information in a consistent manner.

Option 4 we strongly oppose. Option 4 will not increase the information available to consumers. Voluntary actions in this setting have been demonstrated in numerous circumstances to be ineffective in producing positive health outcomes, not cost-effective, and have failed to ensure accountability. Examples include pregnancy warning labels on alcohol products and low 40% uptake of the Health Star Rating,²⁰ with low-rating products not using the Health Star Rating.^{20, 21}

22. If Option 4 is your preferred option, how do you see it being implemented and operationalised?

Dietitians Australia is strongly opposed to voluntary implementation. It is clearly established that voluntary schemes do not work, as demonstrated in pregnancy warning labels on alcohol and low 40% uptake of the Health Star Rating,²⁰ with low-rating products not using the Health Star Rating.^{20, 21}

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