Comprehensive Review of Food Labelling Law and Policy

Submission from the Obesity Policy Coalition to the Labelling Review Secretariat

Obesity Policy Coalition

The Obesity Policy Coalition (OPC) is a coalition between Cancer Council Victoria, Diabetes Australia – Victoria, VicHealth and the World Health Organization Collaborating Centre for Obesity Prevention at Deakin University. The OPC is concerned about the rates of overweight and obesity in Australia, particularly in children.

The OPC is also concerned about the influence of food labelling on Australians' food choices and diets. The OPC believes that changes to food labelling law and policy are needed to ensure consumers are able to make informed choices about food, and to guide consumers towards healthier food products. Improvements to food labelling are an essential component to any multi-strategic approach to address food related health issues, in line with the recommendations of the Preventative Health Taskforce and other agencies such as the World Health Organization. Accordingly, the OPC welcomed the recommendations in the *Labelling Logic – Review of Food Labelling Law and Policy (2011)* report ("Labelling Logic") and is pleased to have this opportunity to participate in the Commonwealth and State and Territory Governments' consultation to inform their response to this report.

Executive Summary

The Council of Australian Governments agreed that the Australia and New Zealand Food Regulation Ministerial Council undertake a comprehensive Review of Food Labelling Law and Policy. An independent Review Panel was appointed to undertake the review and this panel presented its final report (Labelling Logic) to the Hon. Catherine King MP, Chair of the Australia and New Zealand Food Regulation Ministerial Council on 28 January 2011. Australian governments are now developing their responses to this report.

The OPC encourages Australian governments to support the adoption of the recommendations in the Labelling Logic report, particularly recommendations 18 (disclosure of energy content on fast food menus and vending machines), 20 (health, nutrition and related claims), 50 – 54 (introduction and monitoring of a multiple traffic light labelling system on the front of food packaging and fast food menus/menu boards), and 57 – 61 (compliance and enforcement).

1. Issues Hierarchy

The OPC supports the framework of a risks based issues hierarchy for guiding decisions about the regulation of different food labelling issues, and agrees with the Review Panel that the labelling issues associated with the highest risks to public health should be subject to the highest levels of regulation. The OPC also supports the distinct tiers in the issues hierarchy recommended by the Review Panel, and in particular the placement of

preventative health second on the hierarchy (after food safety). The OPC agrees that governments should primarily initiate regulatory action for preventative health in relation to food labelling issues.

When determining the appropriate level of regulation (i.e. mandatory, co- or self-regulatory) for preventative health food labelling measures, the OPC recommends that the following factors be taken into account:

- The consequences and impact of inadequate food labelling.
- Industry incentives to effectively self-regulate and alignment of consumer and industry interests.
- Importance of universal and consistent labelling.
- Record of industry compliance with self-regulatory and legislative provisions.

The OPC also supports the Review Panel's recommendation that responsibility for preventative health remain with Food Standards Australia New Zealand ("FSANZ") and state and territory food authorities, so long as a consistent approach is taken to interpretation and adequate resources are available to state and territory governments for monitoring and active enforcement. Adequate resources and improved procedures will also be required for FSANZ to ensure that it can develop standards in a timely manner. The OPC also strongly supports the Review Panel's recommendation for the establishment of an effectively resourced national Food Labelling Bureau, as well as its proposed functions.

2. Front-of-pack labelling

The OPC strongly supports the recommendation by the Review Panel that an interpretive front of pack labelling system be developed, and in particular a multiple traffic light ("MTL") labelling system, for use on the front of food packaging and to be adapted for use on menus and menu boards.

The OPC supports the initial voluntary implementation of the developed MTL system, but is concerned that this system is unlikely to be implemented by the food industry (particularly unhealthy food companies) in an effective, consistent, universal and therefore, meaningful way. The OPC recommends that clear measures, objectives and targets be established at the outset, together with a clear timeline for compliance (i.e. 2 years) to ensure that steps can be taken towards mandatory implementation, if voluntary implementation fails to effect meaningful reforms.

The OPC recommends that if a phased approach is to be taken, MTL labelling should also be mandatory, from the outset, on foods displaying nutrition claims ("i.e. low in sugar"). The OPC also supports the Review Panel's recommendation that nutrition claims should not be permitted on foods unless they meet nutrient criteria, i.e. they are healthy overall.

The OPC encourages the government, with input from FSANZ, to develop the criteria and format for a front-of-pack MTL labelling system based on the schemes developed by the Food Standards Agency in the UK and Sanitarium in Australia. It recommends that:

- The scheme developed should consist of coloured signposts and text for fat, saturated fat, sugar and sodium.
- Low, medium and high ranges of nutrients should be based on nutrition criteria developed by the Food Standards Agency in the UK.

- Criteria for MTL classifications should be based upon the proportion of nutrients per 100g, rather than the amount of nutrients per serving size.

The OPC also recommends that consideration be given to requiring additional signposts for kilojoule content, overall healthiness, beneficial nutrients (i.e. fibre) and the amount of nutrients in a product.

The OPC supports the recommendations of the Review Panel that any MTL system must be accompanied by extensive consumer education and be subject to ongoing monitoring and evaluation.

The OPC supports the Review Panel's recommendations for mandatory kilojoule labelling, and voluntary MTL labelling on menus and menu boards in chain food outlets. It also recommends the inclusion of interpretive colour coded guidance on kilojoule labels (i.e. identifying whether the kilojoule content is high, medium or low) and the use of a single traffic light for overall healthiness.

The OPC identifies the issues that will need to be explored from a public health perspective when developing any MTL system. For example, there is a need for the system to inform and enable all consumers, including those with low education and from culturally and linguistically diverse communities to use the system effectively. The need for the system to be applied consistently and universally must also be recognised. It highlights the specific issues that will need to be considered when developing the criteria and format for an MTL system, and highlights the high public support for an MTL system on the front of food packaging and in chain food outlets. The OPC also addresses issues that are likely to be raised by the food industry, including that the introduction of a MTL would impose an unreasonable cost burden.

While the OPC would be willing to work with industry to develop an evidence based MTL labelling system (for example it would be willing work with Sanitarium on the further development and implementation of its Healthy Eating System), the OPC is concerned that this type of system would be unlikely to be implemented by unhealthy food manufacturers unless implementation was mandatory. The OPC would not be willing to work with industry to further develop and implement non-interpretive systems, such as the Percent Daily Intake Guide, given the problems with these schemes and the evidence that they are ineffective (compared to MTL labelling systems) in informing consumers and changing their consumption behaviours towards healthier patterns.

Finally, the OPC reaffirms its support for the recommendations of the expert Review Panel in the Labelling Logic report and urges Australian governments to give them their support. It acknowledges that while there may be other useful mechanisms for informing consumers about the nutritional qualities of their foods, i.e. through education campaigns or information on websites, these mechanisms are not an effective substitute to the provision of simple, easy to understand nutrition information on food labels or in chain food outlets, on menus and menu boards.

3. Alcoholic Beverages

The OPC supports the Alcohol Policy Coalition's submission to the Labelling Review Secretariat in relation to labelling of alcoholic beverages.

1 Discussion Paper/ Questions on Issues Hierarchy

The Review Panel has proposed that food labelling law and policy be guided by a risks based "issues hierarchy", in descending order of food safety, preventative health, new technologies and consumer value issues (recommendation 2). It proposes that the modes of intervention should be mandatory for food safety, a mixture of mandatory and co-regulatory for preventative health (the choice depending on government health priorities and the effectiveness or otherwise of co-regulatory measures) and self-regulatory for consumer values.

The OPC's interest in the issues hierarchy relates to the preventative health tier and in particular, how this tier may guide food labelling law and policy that has the capacity to improve food labelling, influence healthier food choices and improve public health by reducing overweight and obesity, and diet related non-communicable disease in Australia. Accordingly, this submission addresses 'Discussion Questions – Recommendation 2', questions 1 and 2 (proposed framework and issues hierarchy). It does not address question 3 (consumer values) or 'Discussion Questions – Recommendation 28' (new technologies).

1.1 Discussion Questions – Recommendation 2

1. As a broad concept, is a Principles-based framework and hierarchy of food labelling issues a useful basis for guiding decisions on the appropriate regulatory approach for different food labelling issues?

The OPC supports the principles-based framework and issues hierarchy proposed by the Review Panel as a useful basis for guiding decisions on the appropriate approach for different food labelling issues.

The OPC agrees with the Review Panel that a risks based hierarchy is appropriate to govern the initiation of regulatory action, the modes of intervention and where the rules of oversight should lie. The labelling issues that are associated with the highest risks to public health, i.e. food safety and preventative health, should be subject to government intervention (mandatory regulation or co-regulation) and those associated the low risks to public health should be subject to lower levels of regulation (except in the case of market failure or inadequate regulation to protect the public interest, in which case a mandatory or more prescriptive approach may be required).

Across the hierarchy, where softer regulations fail to protect public health, there must be an explicit opportunity for escalation to higher and more prescriptive regulatory modes. As discussed below, measurable targets and objectives must be established at the outset, together with strict timelines for compliance.

The OPC agrees with the Review Panel that the community must be confident that food labelling regulations are capable of protecting their interests. Accordingly, it agrees that adequate resources must be allocated to ensure that high priority is given to the monitoring and enforcement of food labelling laws (recommendation 3).

2. What are your views on the various elements of the Review Panel's proposed Framework, and in particular the distinct tiers of food safety, preventative health, new technologies and consumer values issues?

As discussed above, the OPC supports the food labelling hierarchy as an approach framework for guiding decisions about government intervention in food labelling and in particular, the placement of preventative health on the second tier of the hierarchy (after

food safety). However clear criteria for determining the appropriate mode of regulation for preventative health measures (i.e. mandatory, co- or self- regulation) will be required to ensure that preventive health food labelling measures are able to achieve their objectives in a meaningful way.

2.1 The distinct tiers of the issues hierarchy

The OPC recognises that food safety involves acute and immediate risks to public health, and that these risks can be posed by single products, Therefore, the OPC agrees that this justifies location of food safety at the top of the hierarchy where mandatory measures are the dominant mode of intervention, particularly in relation to food safety risks that are life threatening.

However, while preventative health involves long-term risks based on cumulative impact of nutrients in foods, it must be recognised that in many cases the impacts of nutrient poor foods on rates of diet-related chronic disease, although long-term, will be far more substantial for individuals and society. Overweight and obesity among adults and children are associated with significant health burdens, including an increased risk of many chronic diseases, such as type 2 diabetes, cardiovascular disease and some cancers.[1] The economic costs of obesity and diet-related chronic disease are also significant, with the annual economic costs of obesity estimated to be $58.2 billion.[2] Therefore clear guidelines are required to ensure that governments do not use the secondary placement of preventative health on the hierarchy as justification for not intervening and relying on self- regulation, where evidence indicates that government intervention would have important preventative health benefits.

2.2 Modes of intervention

The OPC supports the proposed modes of regulatory intervention and in particular, it agrees that government should primarily initiate regulatory action (through a mixture of mandatory and co-regulatory approaches) for preventative health food labelling issues. It agrees that self-regulatory measures may be appropriate to supplement or support dominantly mandatory or co-regulatory measures, but that this should depend upon the nature of the particular preventative health measure and past experience of handling it (as discussed below, it should also depend upon the importance of consistent and universal labelling). The OPC also agrees that if softer forms of regulation are found to be inadequate to protect public health, higher levels of regulation should be introduced.

When assessing the appropriate mode of regulation (i.e. mandatory, co- or self-regulatory) in relation to preventative health measures, the OPC recommends that guidelines be developed that require the following specific issues to be taken into account:

1. The consequences and impact of inadequate food labelling (direct and indirect and short- and long-term)

   Government guides to regulation advise that self-regulation should be considered where the problem in question poses 'no strong public interest concern, in particular, no major public health and safety concern' and 'the problem is a low-risk event of low impact or significance'.[3] In the OPC's view, this is not the case

[1] World Health Organization. Obesity: Preventing and Managing the Global Epidemic (2000) WHO Technical Report Series 894, Geneva.
[2] Access Economics. The growing cost of obesity in 2008. Canberra: Diabetes Australia. 2008.
[3] Office of Best Practice Regulation, Australian Government Best Practice Regulation Handbook. (2007) Canberra: Commonwealth of Australia; Department of Treasury and Finance, Victorian Government. (2007) Victorian Guide to Regulation, Melbourne: Victorian Government.

with respect to preventative health related food labelling.

In the short-term inadequate food labelling, which fails to properly inform consumers with respect to allergens, ingredients, and the nutritional profile of products, poses serious acute risks to consumers' short-term health. In the long-term, inadequate food labelling, which fails to guide consumers towards healthy choices, is likely to lead to higher levels of overweight, obesity, diet-related disease and death. Experts agree that the problems of overweight and obesity require a multi-strategy solution and a range of policy and regulatory measures, including improvements to food labelling. [4]

The OPC strongly agrees with the Review Panel that any uncertainties in the evidence should not prevent action. As recognised by the Review Panel, it can be difficult to isolate the effects of one food labelling measure on consumer behaviour given the influence of many other factors and policies on that behaviour. The time lag between the imposition of a given food labelling measure and the benefits to public health must also be taken into account. Unequivocal experimental evidence will be impossible to obtain, so other evidence must be relied upon to inform action and reforms should be monitored, evaluated and refined over time. [5]

2. Industry incentives to effectively self-regulate and alignment of consumer and industry interests

Another criterion for considering the use of self-regulation, cited in government guides, is whether the problem can be fixed by the market itself through incentives (such as industry survival or market advantage) offered to industry to develop and comply with effective self-regulatory arrangements.[6] Self-regulation is most likely to be effective when the interests of industry and consumers align.[7]

The OPC does not believe market incentives are a reliable mechanism for ensuring industry will voluntarily develop and comply with labelling schemes that act to guide consumers to healthier food choices and which may result in a decline in sales of unhealthy products. Competition between manufacturers has certainly not been sufficient to eliminate bias in relation to the type of information manufacturers highlight on food packaging. Manufacturers gain significant market advantages from promoting health and nutrition content claims on packaging, and many would be disadvantaged in the market by displaying information about high levels of particular nutrients on the front of packaging. For example, it is unlikely that manufacturers of unhealthy food would voluntarily

[4] See, eg: Swinburn, B. (2008) 'Obesity prevention: the role of policies, laws and regulations' *Australia and New Zealand Health Policy,* 5: 12; Armstrong, R. (2007) 'Obesity, law and personal responsibility' *Medical Journal of Australia*, 186(1), 20, Zimmet, P.J., & James, W.P.T. (2006) 'The unstoppable obesity and diabetes juggernaut: what should politicians do? *Medical Journal of Australia*, 185(4), 187-188.

[5] Institute of Medicine (2010) Bridging the Evidence Gap in Obesity Prevention: A Framework to Inform Decision Making. Report Brief. April 2010. Available at http://www.iom.edu/~/media/Files/Report%20Files/2010/Bridging-the-Evidence-Gap-in-Obesity-Prevention/Bridging%20the%20Evidence%20Gap%202010%20%20Report%20Brief.pdf (accessed 1 September 2011)

[6] Office of Best Practice Regulation, Australian Government (2007) *Best Practice Regulation Handbook*, Canberra: Commonwealth of Australia; Department of Treasury and Finance, Victorian Government (2007) *Victorian Guide to Regulation*, Melbourne: Victorian Government.

[7] Taskforce on Industry Self-Regulation, Australian Government (2000) *Industry Self-Regulation in Consumer Markets*, Canberra: Australian Government.

agree to an MTL labelling scheme that required them to display red traffic light labels.

3. Importance of universal and consistent labelling

A further criterion for effective self-regulation included in government regulation guides is adequate industry coverage. [8] In the OPC's view, this is particularly important with respect to food labelling. The effectiveness of any nutrition information labelling requirements, particularly any front-of-pack labelling scheme that is introduced, will depend on universal application to all products, and consistent presentation of labelling. This ensures consumers are able to develop familiarity with and understanding of nutrition labels, and make effective comparisons between products.

The OPC believes self-regulation almost certainly will not be effective ensure universal application or consistent presentation of nutrition labelling. Voluntary labelling schemes are unlikely to be extended to all products, and will lead to inconsistencies in the type and format of information displayed on labels. This is true of the 'Percent Daily Intake' front-of-pack labeling scheme developed by the Australian Food and Grocery Council. The scheme does not apply universally, and the information displayed on the labels differs between products. For more information about the problems with the Percent Daily Intake scheme, please see attached OPC Policy Brief – Problems with Daily Intake Guide labels.[9]

4. Record of industry compliance with self-regulatory and legislative provisions

In considering the appropriate tools for intervention, the OPC suggests that the record of industry compliance with labelling requirements should also be considered. Non-compliance with labelling requirements is already a problem in Australia,[10] and the level of compliance with the self-regulatory Code of Practice on Nutrition Content Claims has been found to be particularly low.[11]

The OPC believes the efficacy of any nutrition information labelling requirements depends on independent monitoring and enforcement, and effective compliance mechanisms, including appropriate sanctions. Government regulation is needed to ensure these elements are in place.

Accordingly, the OPC strongly urges the government to recognise the need for mandatory regulation (or co-regulation with government developed standards) to require labelling measures where the evidence demonstrates that such measures are likely to have important preventative health benefits, such as MTL labelling. Such labelling measures are likely to be resisted by food manufacturers and self- or co- regulatory measures involving industry collaboration on rule setting, are unlikely to be successful.

Co-regulatory measures are only likely to be effective if government is responsible for

[8] Office of Best Practice Regulation, Australian Government (2007) *Best Practice Regulation Handbook*, Canberra: Commonwealth of Australia; Department of Treasury and Finance, Victorian Government (2007) *Victorian Guide to Regulation*, Melbourne: Victorian Government.
[9] The OPC's Policy Briefs are also available via its website at http://www.opc.org.au/whatwedo/policydocuments.aspx
[10] Fabiansson, S (2006) Precision in nutritional information declarations on food labels, *Asia Pacific Journal of Clinical Nutrition*, 15(4).
[11] Williams, P.G., Yeatman, H., Zakrezewski, S., Aboozaid, B., Henshaw, S., Ingram, K., Rankine, A., Walcott, S., & Ghani, F. (2003) 'Nutrition and related claims used on packaged Australian foods – implications for regulation', *Asia Pacific Journal of Clinical Nutrition*, 12, 138-150.

setting and developing rules, and has a leading role in monitoring and enforcing compliance. Industry involvement in rule setting would result in weakened requirements and industry responsibility for monitoring/enforcement would result in compliance problems.

2.3 Oversight

The OPC agrees with the Review Panel that responsibility for preventative health should continue to lie with FSANZ and state/territory food authorities, so long as a consistent approach is taken by the states/territories to the interpretation of food laws and appropriate resources are made available to states/territories to monitor and actively enforce such laws. FSANZ will also need to be provided with adequate resources, and review its procedures, to ensure that standards may be developed in a timely manner.

The OPC strongly supports the Review Panel's recommendation for the establishment of an effectively resourced national Food Labelling Bureau to advise Australian and New Zealand ministers on all aspects of labelling policy, and promote consistent interpretation and enforcement of food labelling standards. We agree that its role should be administrative and advisory, to undertake research, educate and inform consumers and to monitor compliance and enforcement. It should also be a clearing-house for food labelling complaints.

If there continues to be a lack of consistency and/or enforcement among the States and Territories, the OPC recommends that consideration be given to a national enforcement authority. This authority could be an arm of or a unit within the new Food Labelling Bureau, ACCC, FSANZ, the Department of Health or a new independent authority

The OPC agrees that misleading and deceptive labelling issues should continue to be dealt with by the Australian Competition and Consumer Commission.

2 Discussion Paper / Questions about Front of Pack Labelling

2.1 Discussion Questions – Recommendations 50-54

The Review Panel has recommended the development of an interpretive front of pack labelling system (recommendation 50) and in particular, a multiple traffic light ("MTL") labelling scheme (recommendations 51 – 53). It has also been recommended that chain food outlets be encouraged to use the system on menus and menu boards (recommendation 54). The Review Panel recommended that the use of the MTL labelling scheme be voluntary in the first instance (except for foods that carry general or high level health claims or equivalent endorsements/trade marks/marks, in which case it should be mandatory).

1. If these recommendations were agreed to how could they be implemented, and what could be the consequences?

The OPC strongly supports the development of a front of pack MTL labelling system for use on all packaged food products required to display a Nutrition Information Panel (NIP). It also strongly supports the use of MTL labels on menus and menu boards in chain food outlets.

As recognised by the Review Panel, MTL labels have consistently been found to be the most effective in helping consumers (including consumers from lower socio-economic and culturally/linguistically diverse backgrounds) to understand and compare the nutritional content of foods. Since the release of the Labelling Logic report, the House of Lords (UK) has released a report that also concludes that interpretive MTL labelling

systems are the most effective for informing consumers and changing behaviour. The House of Lords recommended that the UK government take steps to implement the system nationally.[12] In addition, a recent study of the cost-effectiveness of obesity prevention policies concluded that MTL labelling would be highly cost-effective as an obesity prevention measure, as well as having significant positive impacts on the health of the population.[13]

For more information about the evidence supporting an MTL labelling system, please see attached the OPC's policy brief – Traffic Light Labelling.

1.1 The implementation of a phased approach

The Review Panel has recommended a phased approach to the implementation of MTL labelling on front of pack and on menus and menu boards in chain food outlets. It has recommended that the implementation of the system be voluntary in the first instance, except in relation to foods displaying health claims and endorsements/trademarks/marks, in which case it should be mandatory.

This phased approach may be a useful starting point as it will provide government and FSANZ with the opportunity to develop and test the scheme prior to universal implementation. It will also allow industry time to adjust and/or reformulate their products, as well as build consumer understanding of, and demand for, MTL labels.

The OPC is concerned, however, that a mandatory approach may eventually be needed to ensure implementation and enforcement of an effective, consistent and universal MTL labelling system. The OPC thinks it unlikely that such a scheme will be implemented by industry given the expected negative impact on unhealthy food sales. Indeed, following the release of the Labelling Logic report, the Australian Food and Grocery Council (representing a large sector of the processed food industry) announced that it would reject an MTL labelling system on the basis that it is "badly understood" by consumers.[14] Manufacturers whose product ranges include processed foods with have high levels of nutrients such as salt, sugar and fats will clearly lack sufficient incentive to display MTL labels on their foods and no mechanisms will be available to enforce compliance with the system developed.

If a phased approach is adopted, an undertaking should be given that a stronger approach will be taken if the voluntary approach is not universally, consistently and effectively implemented within a determined period of time. Clear and measurable objectives, obligations and targets must be established at the outset to ensure that governments, industry and consumers understand what regulations are intended to achieve, and when steps will be taken towards higher modes of regulation. A clear timeline for compliance will also be required, i.e. 2 years. There should not be any grace period/lag time for enforcement following the introduction of an MTL system that would allow food companies to stockpile products without traffic light labels before enforcement of the scheme.

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[12] House of Lords. Behaviour Change. Science and Technology Select Committee. 2nd Report of Session 2010 – 12. UK. 2011. Available at http://www.publications.parliament.uk/pa/ld201012/ldselect/ldsctech/179/179.pdf (accessed on 24 September 2011).

[13] Sacks G, Veerman JL, Moodie M, Swinburn B (2011) "Traffic Light" nutrition labelling and "junk-food" tax: a modelled comparison of cost-effectiveness for obesity prevention'. International Journal of Obesity. Vol. 35, pp. 1001–1009.

[14] Labelling Logic: AFGC opposes traffic light labelling. Food Magazine. 31 January 2011. Available at http://www.foodmag.com.au/news/labelling-logic--afgc-opposes-traffic-light-labell (accessed on 24 September 2011)

The OPC also recommends that if a phased approach is to be taken, MTL labelling should be mandatory from the outset on foods displaying nutrition claims ("i.e. low in sugar"). Nutrition claims, act in the same way as health claims and equally have the ability to confuse and mislead consumers about the overall nutrition quality of a food product. There is evidence that nutrition claims produce a halo effect, whereby the presence of the claim can cause consumers to rate more highly other nutrition attributes of the food not included in the claim.[15] There is also evidence that consumers do not make clear distinctions between nutrition content claims and health claims.[16] For these reasons, the OPC also supports the Review Panel's recommendation that all foods that carry a nutrition claim be required to comply with an agreed nutrient profiling system (recommendation 20).

1.2 Development of criteria and format

The OPC encourages the Commonwealth government, with input from FSANZ, to develop the criteria and format for a front of pack MTL labelling scheme based upon the schemes developed by the Food Standards Agency in the UK[17] (see for example, Figure 1 below) and Sanitarium ("The Healthy Eating System") in Australia[18] (see for example, Figure 2 below). This scheme should then be adapted for use on menus and menu boards in chain food outlets.

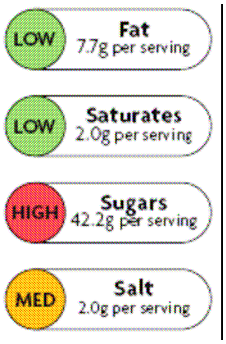

Figure 1 – An example of MTL labelling developed in the UK

Figure 2 – An example of Sanitarium's Health Eating System

At a minimum, the MTL labelling scheme developed should consist of a coloured signpost (red, orange or green) and text (low, medium or high) for each nutrient – fat, saturated fat, sugar and sodium. These are widely accepted as the key nutrients of which consumers need to reduce consumption in order to improve health outcomes. A national survey of consumers conducted by Cancer Council Victoria in 2010 found that these are also the elements that consumers are most interested in knowing about.

Low, medium and high ranges of nutrients should be based on nutrition criteria developed by the Food Standards Agency in the UK. (Information about these criteria is available on the Food Standards Agency website at

[15] J. Craig Andrews, Scot Burton and Richard G. Netemeyer (2000) Are Some Comparative Nutrition Claims Misleading? The Role of Nutrition Knowledge, Ad Claim Type and Disclosure Conditions *Journal of Advertising* Vol. 29, No. 3, pp. 29-42

[16] Williams P (2005) Consumer understanding and use of health claims for foods. Nutr Rev. Vol 63:245-264.

[17] Food Standards Agency, Front-of-pack Traffic Light Signpost Labelling -Technical Guidance. Issue 2, November 2007. UK. Available at: http://www.food.gov.uk/multimedia/pdfs/frontofpackguidance2.pdf (accessed 24 August 2011)

[18] Sanitarium. Front-of-Pack Labelling: Which Traffic Lights? : Sanitarium Health & Wellbeing, Australia, 2011. Retrieved from http://www.sanitarium.com.au/~/media/sanitarium/about-us/traffic-light-report.ashx.

http://www.food.gov.uk/multimedia/pdfs/frontofpackguidance2.pdf.) These criteria should be reviewed and adapted as necessary to ensure their suitability for use in Australia.

The OPC recommends that the criteria for traffic light classifications should be based upon the proportion of nutrients per 100g (as per the UK), rather than the amount of nutrients per 'serving' size. This is because serving sizes can vary significantly depending on a range of factors, such as age, gender and weight. In the absence of standard serving sizes in Australia, the food industry often manipulates serving sizes to be smaller than what an average person would consume. The smaller the serving size attributed to a particular product by the food manufacturer, the healthier the product looks. Recommended or suggested serving size can also vary between food products within the same food category, making it difficult for consumers to compare products within and across food categories. For example, with cereals, a standard serving size of Kellogg's Mini Wheats is stated to be 40g while a standard serving of Kellogg's Nutri-Grain is stated to be 30g. Basing traffic light values on nutrients per 100g allows consumer to compare products easily, and in relation to packaging containing multiple non-fixed serves, removes the capacity for manufacturers to lower recommended serving sizes to manipulate traffic light values. If the classifications (or classifications in some food categories) were to be based on serving sizes, standard serving sizes would need to be determined by FSANZ. For example, for food packages containing multiple non-fixed serves of a product, standard serving sizes could be developed by FSANZ (based on evidence) for different food categories. For food products consisting of one fixed serve or multiple fixed serves, serving sizes could be based on the fixed serving size. A food package should be considered to contain one fixed serve or multiple fixed serves if it would reasonably be expected that the whole single serve or the whole of each multiple serve would be consumed at once (i.e. in a single sitting) after purchasing or opening.

In developing a suitable MTL labelling scheme for use in Australia, consideration may also need to be given to use of different criteria for different food groups, which take into account the nutritional composition of foods in that group. This may help avoid misclassification of foods and encourage product reformulation. Thought may also need to be given to whether added sugar rather than total sugar levels should be displayed in a traffic light signpost. This may be necessary to prevent products with high fruit content and dairy products with high levels of intrinsic sugars from appearing less healthy than foods that are lower in total sugar but higher in added sugar.

To ensure that MTL labels are clearly visible to consumers, government led guidelines will also be required stipulating font size, colour and other presentation factors such as letter and line spacing, positioning, contrast levels, text justification and stroke width. Consumer testing should be conducted to determine how the size, colour and other presentation factors should be regulated to maximise readability and ensure sufficient prominence of the information.

The OPC recommends that consideration should also be given to requiring the following additional signposts as part of a front-of-pack MTL labelling scheme:

- Additional signpost for kilojoule content

The OPC recommends that consideration should be given to requiring an additional signpost indicating the kilojoule content of foods to be displayed on the front-of-packs, as kilojoule consumption is directly related to body weight.

The kilojoule content in a serve of the product could appear as a number alongside MTL labels. Consideration should also be given to the provision of interpretive guidance (e.g.

through colour coding) as to whether kilojoule content is high, medium or low per 100g (i.e. level of energy density). Further work would be needed to determine appropriate ranges for such guidance.

Supportive consumer education would also need to be undertaken to improve understanding of the meaning and importance of kilojoule intake.

Further consumer research should be conducted as to whether inclusion of kilojoule content in a FOPL scheme would be useful and effective for guiding consumers to healthy food choices.

- Additional traffic light signpost for overall healthiness

The OPC recommends that consideration should be given to use of an additional traffic light to indicate the overall healthiness of the food product, taking into account levels of beneficial and detrimental nutrients. This may assist consumers to weigh up the importance of different nutrients – including beneficial and detrimental nutrients – when choosing between products, and may help them to make healthier choices, particularly when comparing products across food categories.

Overall ratings for products could be based on nutrient profile scoring criteria, developed by the UK Food Standards Agency and adapted for use in Australia by FSANZ as qualifying criteria for health claims (under the proposed new health claims standard *Proposal P293 for Nutrition, Health and Related Claims*). Further work would be needed to adapt these criteria for use as the basis for overall traffic light signposts. Guidance may also be taken from Sanitarium's Health Eating System which provides an overall rating of "Eat Often", "Eat Occasionally" or "Eat sparingly".

Further research should be conducted to determine whether an overall traffic light would assist consumers to choose healthy products.

- Additional traffic light signposts for beneficial nutrients

The OPC suggests that consideration should be given to requiring additional traffic light signposts for certain beneficial nutrients, such as fibre and calcium, to avoid misclassification of some products. Particular signposts could be required across all foods or only in relation to certain food groups. For example, traffic light signposts for detrimental nutrients only would suggest that wholegrain bread is less healthy than white bread, and that muesli is less healthy than a lower fibre cereal, without inclusion of a signpost for fibre. Therefore, it may be appropriate for a fibre signpost to be required in relation to breads, cereals, rice, pasta and noodles.

Guidance may again be taken from Sanitarium's Healthy Eating System which includes a traffic light for 'Fruit & Veg, Grains, Nuts, Seeds' and for fibre.

- Additional signposts for amounts of nutrients in products

In addition, consideration should be given to use of a number alongside traffic light signposts indicating either: (a) the amount (in g/ml) of the nutrient per serve; or (b) the proportion of the nutrient (i.e. per 100g/ml) in the product. Further research should be conducted to determine whether this would assist consumers to choose healthy products, and whether a number based on serve or 100g/ml of a product would be most effective.

If a number based on the amount of nutrients in a serve of a product were used, serving sizes for food packages containing multiple non-fixed serves of a product (e.g. breakfast

cereal packs) would need to be appropriately developed by FSANZ and regulated so that they could not be manipulated by manufacturers to make nutrient values appear lower.

1.3 Consumer education

The OPC supports the Review Panel's recommendation that any MTL system should be accompanied by comprehensive consumer education to explain and support the system (recommendation 52). Consumer education should be informed by consumer research and promote both the understanding and use of traffic light labels. As recognised by the Review Panel, there is strong evidence that food labelling is more effective when accompanied by education and information programs.[19]

1.4 Administration, compliance and enforcement

The OPC recommends that the MTL labelling system be implemented as a new standard in Food Standards Code, with the States and Territories having responsibilities for compliance and enforcement. As discussed above, the universal adoption of a consistent scheme will be vital to ensure that consumers are able to develop familiarity with, and an understanding of nutrition labels, and make effective comparisons between products. As also discussed above, the OPC strongly supports the establishment of a national food labelling bureau to advise state and territory ministers and promote consistency, monitoring and enforcement.

1.5 Menu and menu board labelling

The OPC supports the Review Panel's recommendations for chain food outlets to be required to display signposts with kilojoule information (recommendation 18), and for chain food outlets to be encouraged to adapt and display the MTL labels on menus and menu boards (recommendation 54).

The OPC believes that kilojoule and traffic light labelling on menus and menu boards in chain food outlets would help to educate consumers about the nutritional composition of fast food, encourage consumers to choose healthier options and/or reduce their consumption of fast food overall, encourage fast food chains to reformulate products, and, as part of a multi-strategy approach, help to reduce population levels of overweight and obesity. There is evidence that the provision of calorie information on fast food menus in New York City has resulted in customers who referred to the information purchasing meals with fewer kilojoules (for themselves and their children), it has also improved the healthiness of the foods sold.[20] For more information about the evidence in support of chain food outlet menu labeling, please see attached OPC Policy Brief – Fast Food and Vending Machine Nutrition Information.

The OPC particularly supports the combination of kilojoule and MTL labels as this combination would ensure that consumers are informed not only of the energy content of fast foods, but also their wider nutritional value. For example, a salad may have the

[19] WCRF and AICR. Policy and Action for Cancer Prevention - Food, Nutrition, and Physical Activity: a Global Perspective. 2009. p.61 – 63.

[20] Dumanovsky T., Huang C., Nonas C., Matte T., Bassett M., Silver L (2011) Changes in energy content of lunchtime purchases from fast food restaurants after introduction of calorie labelling: cross sectional customer surveys. *BMJ* Vol. 343:d4464 (published on-line 26 July 2011); Bassett, M.T. et al (2008) Purchasing behaviour and calorie information at fast-food chains in New York City. Am J Pub Health Vol. 98(8); 1-3; Tandon, P.S., Wright, J., Zhou, C., Rogers, C.B., & Christakis, D.A (2010) Nutrition menu labeling may lead to lower-calorie restaurant meal choices for children Pediatrics Vol. 125(2), 244-248; Burton, S., Creyer E.H. et al (2006) Attacking the obesity epidemic: the potential health benefits of providing nutrition information in restaurants. Am J Pub Health Vol. 96(9), 1669-1675.

same kilojoule content to a hamburger, but the MTL labels would reveal the differing levels of fat, sugar or salt, and therefore the differing levels of healthiness.

While NSW has enacted legislation requiring kilojoule labelling in chain food outlets (with enforcement to commence from February 2012) and the Victorian, Tasmanian, South Australian and ACT governments have indicated a willingness to introduce similar measures, a nationally consistent approach (combined with MTL labelling) would be preferable to ensure a universal and consistent approach across all chain food outlets.

- Format and criteria

The OPC recommends that kilojoule and MTL signposts should be displayed next to all standard menu items on menus and menu boards that are clearly visible at the point of sale, and on tags next to assisted or self-service cabinets or bars (e.g. salad bars, self-service buffets or cafeterias). As above regarding front-of-pack MTL labelling, to ensure that kilojoule and MTL signposts are clearly visible to consumers, government led guidelines will also be required stipulating font size, colour and other presentation factors such as letter and line spacing, positioning, contrast levels, text justification and stroke width. Consumer testing should be conducted to determine how the size, colour and other presentation factors should be regulated to maximise readability and ensure sufficient prominence of the information.

Nutrition criteria developed by the UK Food Standards Agency could be used as the basis for determining appropriate ranges for levels of nutrients, as discussed above in relation to front-of-pack MTL labelling. These criteria would need to be reviewed and adapted for use in fast food outlets in Australia, and the criteria used for fast food labelling may need to differ from those for front-of-pack labelling.

As with front-of-pack MTL labelling, consideration may also need to be given to requiring additional traffic light signposts for certain beneficial nutrients, such as fibre. The effectiveness of non-interpretive kilojoule labelling would also be enhanced by the inclusion of colour coded interpretive guidance to demonstrate whether the kilojoule content of the food product is high, medium or low. However, further work would be required to determine appropriate kilojoule ranges, and these may need to differ depending on factors such as the type of product, whether it is directed to children, and whether it is intended to be eaten as a snack or a meal.

The OPC recognises that there may be issues with MTL signposts overcrowding menus, but believes that these issues could be overcome with appropriately designed and formatted menus. While the OPC primarily supports a MTL scheme, consideration may also be given to displaying a single traffic light signpost, providing an overall rating of the nutritional profile or healthiness of each menu item or product (as discussed in relation to front-of-pack labelling above).

Consideration should also be given to how fast food menu meal deals or product combinations should be labelled and the criteria used. It may be necessary to require menus and menu boards to display nutrition information labels for each individual component of the fast food menu or bundle to avoid fast food outlets being able to use product combinations to manipulate traffic light ratings to make products appear to be healthier than they are, for example, combining unhealthy products, such as hamburgers, with healthier or healthy products such as bottles of water or salads, to produce more favourable overall traffic light ratings.

- Defining “chain food outlet”

An appropriate definition of 'chain food outlet' will need to be developed by government, with input from FSANZ. This definition may be modelled on definitions in (and proposed for inclusion in) Australian state legislation, or other definitions used in US menu labelling legislation. For example, in NSW the *Food Regulations 2010* (r16P to 16W) require food chains with 20 or more outlets in NSW or 50 or more nationally to display kilojoule content of each standard food item on menus & drive-through menu boards. The US *Patient Protection and Affordable Care Act* (s.4205) requires food chains with 20 or more outlets doing business under the same name and offering for sale substantially the same menu items to display kilojoule information. The *New York City Health Code* (s.81.50) requires food chains with 15 or more outlets, that offer for sale substantially the same menu items, in servings that are standardised for portion size and content, to display kilojoule content information.

The OPC recommends that the definition of fast food outlet in Australia should be based on chains of ten or more retail food outlets nationally, given Australia's small population size. This would ensure small, locally owned food businesses were excluded from menu labelling requirements.

- Other issues relevant to menu labelling

The OPC recommends that introduction of menu labelling should also be accompanied by extensive consumer education programs and social marketing campaigns to promote understanding and use of nutrition information displayed on menus. As discussed above, there is strong evidence that food labelling is more effective when accompanied by education and information programs.[21]

As discussed above with respect to front of pack labelling, if a phased approach is to be taken with respect to MTL labelling in chain food outlets, an undertaking should be given that a mandatory approach will be taken if the voluntary approach is not universally, consistently and effectively implemented. Again, clear and measurable objectives and targets will be required at the outset, together with a clear timeline for compliance will also be required.

1.6 Evaluation of MTL labelling

The OPC strongly supports the Review Panel's recommendation that any MTL labelling system be subject to ongoing monitoring and evaluation to assess industry compliance and the effectiveness of the system in improving the food supply and influencing food choices (recommendation 53). This will also enable the system to be refined and improved into the future.

The OPC agrees that evaluation should be accorded high priority. As recognised by the Review Panel, evaluations will need to measure the impact of MTL labelling on short and long-term objectives. For example, it will need to measure the impact on incremental changes in knowledge and purchasing and consumption behaviours in the short to medium term, and the impact on public health in the longer term.

If a phased approach is taken to traffic light labelling, ongoing evaluation will also be vital to help determine whether a higher mode of regulatory intervention is required to achieve the objectives of traffic light labelling.

1.7 The consequences of implementing an MTL labelling system on front of pack and in chain food restaurants

[21] WCRF and AICR. Policy and Action for Cancer Prevention - Food, Nutrition, and Physical Activity: a Global Perspective. 2009. p.61 – 63.

As recognised by the Review Panel, if implemented effectively and consistently, an MTL labelling scheme would lead to improved consumer understanding of the nutritional content of foods, and in the longer-term, greater consumer demand for healthier products, reformulation and development of healthier products by the food industry, and a shift in eating patterns towards healthier foods. For example, there is evidence from the US that kilojoule information on menu labels influences consumers to order meals with fewer kilojoules and improves the healthiness of the foods sold.[22] There is also evidence from the UK that the sale of foods displaying red traffic lights have decreased.[23]

If a phased approach is taken to MTL labelling, the system will initially only be mandatory on foods displaying health claims and endorsements/trademarks/marks. The requirement that MTL labelling be mandatory on foods that make health claims or display endorsements or the like, is also reasonable given foods that make such claims should be required to properly inform consumers of the nutritional profile of the product. However, given that only foods that meet nutrient profile criteria may make health claims (i.e. foods that are healthy overall), it may be anticipated that predominantly healthier foods will display traffic light labels and that in turn, predominantly amber and green traffic lights will be displayed. Unhealthy foods that do not display health claims or endorsements/trademarks/marks will not be required to display traffic lights and as discussed above, are unlikely to do so given the likely impact on sales.

As discussed above, the OPC anticipates that mandatory implementation will be required to bring about an effective, consistent and universal traffic light labelling scheme capable of informing consumers about the nutritional quality of foods (particularly unhealthy foods), influencing purchasing and consumption behaviour and improving population health.

2. What issues need to be explored from an industry/public health perspective when considering these recommendations?

The OPC anticipates that the following key issues that will need to be explored from a public health perspective when developing and administering any MTL system:

- The criteria for determining the mode of regulatory intervention required to ensure that the system is effectively, consistently and universally applied across all food products.
- The effectiveness of the scheme for helping consumers to interpret and understand nutrition information, understand the nutritional properties of products, readily assess and compare products (within and across categories), and identify healthier choices.
- The potential for the scheme to encourage consumers to purchase and consume healthier foods and minimise the purchase and consumption of unhealthy products
- The potential for the scheme to, as part of a multi-strategy approach, improve public health and in particular, reduce the burden of disease associated with overweight and obesity.

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[22] Dumanovsky T., Huang C., Nonas C., Matte T., Bassett M., Silver L (2011) Changes in energy content of lunchtime purchases from fast food restaurants after introduction of calorie labelling: cross sectional customer surveys. *BMJ* Vol. 343:d4464 (published on-line 26 July 2011); Bassett, M. et al (2008) Purchasing behaviour and calorie information at fast-food chains in New York City*Am J Pub Health* Vol. 98(8); 1-3.

[23] House of Lords. Behaviour Change. Science and Technology Select Committee. 2nd Report of Session 2010 – 12. UK. 2011. Available at http://www.publications.parliament.uk/pa/ld201012/ldselect/ldsctech/179/179.pdf (accessed on 24 September 2011).

- The capacity for the scheme to encourage industry to reformulate/develop healthier products.

As discussed above, when developing the criteria and format for an MTL system, the following specific issues will need to be explored by government, with input from FSANZ.

- The appropriate criteria for classifying nutrient levels as high, medium or low.
- Whether MTL criteria should be based upon the proportion of nutrients per 100g in a food product, or the amount of nutrients per serving size.
- The value of an overall traffic light rating, i.e. indicating overall healthiness.
- The value of signposts for beneficial nutrients, such as fibre.
- The value of using a number alongside traffic light signposts indicating proportion of nutrients per 100g, or the amount of nutrients per serving size.
- The value of using different criteria for different food groups.
- Whether added sugar rather than total sugars should be displayed in a traffic light.

Consumer support for MTL labelling must also be taken into account by all parties involved in the development of any MTL labelling system. A national survey by Cancer Council Victoria in 2010 found that:

- 87% of consumers surveyed supported MTL labelling on food packaging to show whether levels of fat, sugar and salt are high, medium or low, and 88% said they would use this information when deciding what to buy at the supermarket.
- 84% of Australian consumers surveyed were in favour of government requiring food and drink chains to display the number of kilojoules in menu items on menu boards, and 79% said they would use this information when deciding what to order.
- 84% of consumers surveyed supported colour coded traffic light labelling on fast food menus to indicate levels of fat, sugar and salt.

The Australian public's support for a MTL labelling scheme must be a driving factor in its development.

The food industry is likely to argue that an issue, from its perspective, is that the implementation of an MTL system may cause an unreasonable cost burden. The OPC considers, however, that while industry may incur some initial costs when adapting their packaging to meet the requirements of an MTL system, these costs are likely to be passed onto consumers and are unlikely to be unduly burdensome (for industry or consumers). A recent report released by the World Cancer Research Fund found that changes to labelling systems are not expensive and can put in place 'fairly quickly'.[24] It may also be noted that food manufacturers regularly change packaging to promote competitions, movie tie-ins, and for other promotions or marketing purposes. In addition, food manufacturers are already required to calculate the nutrient content of products (for the purpose of nutrition information panels). The cost of implementing MTL labels could be minimized by incorporating changes into normal packaging changing cycles. Simarly with respect to chain food outlets, menu labelling requirements would only apply to chain food outlets with standardised menu itmes, most of which would already analyse the nutritional content of their products and many of which alrady provide nutritional information on websites or in brochures. The cost of changing menus and/or menu bards would not be significant for such outlets, particularly relative to their total marketing expenditure.

[24] WCRF and AICR. Policy and Action for Cancer Prevention - Food, Nutrition, and Physical Activity: a Global Perspective. 2009. p.63.

For a detailed discussion of other issues that may be raised by industry groups about MTL labelling, and counter arguments addressing these issues, please see the attached OPC Policy Brief, Traffic lights - Industry arguments and counters.

3. To what extent is there a willingness from industry and public health groups to work collaboratively to consider how the existing schemes could be enhanced with a view to maximising opportunities to provide consumer friendly interpretative nutrition information on the front of food labels on a voluntary basis?

The OPC would be willing to work collaboratively with industry to develop an interpretive labelling scheme, based upon a traffic light scheme, if the evidence showed that the scheme would be easy for consumers (from all backgrounds) to understand and effective to influence healthier food choices (and discourage unhealthy choices). For example, the OPC would be willing to work with Sanitarium to develop and implement its Healthy Eating System which its research has found would be easy for consumers to understand, would be used by consumers and would assist consumers to identify healthy/unhealthy foods.[25]

The OPC anticipates however that Sanitarium's Healthy Food System, or indeed any similar voluntary system based on traffic lights developed within the food industry, is unlikely to be adopted and implemented across the food industry, and in particular, by unhealthy food manufacturers. As discussed above, the OPC believes it unlikely that an effective and consistent traffic light labelling system will be implemented by food manufacturers who sell products which are unhealthy overall (and the AFGC) given the expected impact on unhealthy food sales. Unhealthy food manufacturers will lack sufficient incentive to display traffic lights on their foods and no mechanisms will be available to enforce compliance with the system developed. There is also a risk that multiple schemes would be developed, causing consumer confusion and inhibiting consumers' ability to compare products within and across food groups. As discussed above, the House of Lords has recently cautioned against soft approaches to influencing consumers to improve their diet and recommended that the government take steps to require traffic light labelling on all packaged foods.

The OPC would not be willing to work with industry to further develop and implement its non-interpretive Percent Daily Intake (%DI) Guide system. As recognised by the Review Panel, the evidence shows that interpretive front of pack labelling systems, particularly a colour coded traffic light based systems, are more effective that non-interpretive systems, such as %DI. As discussed by the Review Panel, there are numerous studies showing that %DI is confusing for consumers given it is based on inconsistent serving sizes and an average adults daily nutrition requirements (which can be particularly confusing and misleading when placed on food products aimed at children). The system also requires significant cognitive processing for consumers to assess the healthiness of a product. There has been a low uptake of %DI across food products in Australia.

Similar findings were made by the House of Lords following its review of policies and approaches aimed at informing consumers and influencing behaviour change. In its report, the House of Lords criticised the UK government for pursuing a front of pack labelling system based upon % GDA (which is very similar to %DI) when the evidence clearly demonstrated that a traffic light system would be more effective to inform consumers and change behaviour.

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[25] Sanitarium. Front-of-Pack Labelling: Which Traffic Lights? : Sanitarium Health & Wellbeing, Australia, 2011. Retrieved from http://www.sanitarium.com.au/~/media/sanitarium/about-us/traffic-light-report.ashx.

As also stated by the House of Lords (UK), the government should not be influenced to work with industry towards the development of an inferior system simply because it may be more likely to be adopted on a voluntary basis by the food industry.[26] Given the potential health consequences, the best system, based on evidence, should be introduced to inform consumers and assist them to make healthier choices. The government should take all necessary steps to ensure that the best system is implemented effectively and consistently, and actively monitored and enforced. The failure of government to take these steps will compromise the capacity of a front of pack and/or menu labelling system to improve diets and reduce overweight, obesity and non-communicable disease in Australia.

4. Can you suggest alternative solutions to the problems that the recommendations seek to address?

The OPC supports the recommendations of the expert panel that was appointed by the Ministerial Council for the specific purpose of evaluating and making recommendations for improving food labelling law and policy in Australia. The expert panel conducted a detailed evidence review and extensive public consultation with consumers, industry, government and non-government organisations.

The expert panel concluded that research has consistently found that MTL schemes are the most effective front of pack labelling schemes for helping consumers to identify healthier choices. Given the problems identified with non-interpretive schemes, such as the %DI scheme, these less effective options should not be pursued by government.

While there may be other useful mechanisms available for informing consumers about the nutritional qualities of their foods, i.e. through education campaigns, providing information on websites or using barcode scanning/mobile phone applications to generate nutrition information, these mechanisms are not effective substitutes to the provision of nutrition information on labels. So far as is possible, nutrition information must be physically present on food labels so that consumers are alerted to the information at the point when they are making decisions about purchase and at a later stage when they are preparing or consuming food at home.

It is also important for nutrition information (such as colour-coded front-of-pack labelling information or counter-statements) to be presented on the front of food packs to balance the effect of other nutrition information highlighted by manufacturers, including in marketing, that has the potential to mislead or confuse consumers. Provision of nutrition information in these ways may also disadvantage certain groups of consumers, including consumers from lower socio-economic backgrounds, linguistically diverse consumers, the elderly, and consumers with lower levels of literacy or numeracy.

Provision of nutrition information through education requires consumers to attend to education campaigns and retain the information, and then retrieve the information when they make purchase decisions and consume food. It may be difficult for some consumers to retain nutrition information communicated through education campaigns, and use it to effectively compare products, and make decisions about which products are healthier and/or most suitable for their dietary needs.

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[26] House of Lords. Behaviour Change. Science and Technology Select Committee. 2nd Report of Session 2010 – 12. UK. 2011. Available at http://www.publications.parliament.uk/pa/ld201012/ldselect/ldsctech/179/179.pdf (accessed on 24 September 2011).

Provision of nutrition information through websites requires consumers to look up the information in advance of purchase. The ability of many consumers to do this would be constrained by factors such as lack of access to the internet and lack of time, and most consumers would not be sufficiently organised or motivated. This would only be useful for consumers who shop for food and eat out in a very organised and planned, rather than spontaneous, manner, and would only benefit those consumers who are already highly interested in the nutritional content of products and motivated to eat healthily. This would cause particular disadvantage to certain groups of consumers, such as those referred to above.

With respect to chain food outlets, nutrition information may be provided on food packaging however this is inadequate of itself to inform consumers prior to making their food purchase. It is also inadequate to enable consumers to compare the nutrition quality of food products (before or after purchase).

Accordingly, while the OPC supports the use of all mechanisms available to inform consumers and assist them to make healthier food choices, these should not be considered a substitute for front of pack labelling or menu/menu board labelling in chain food outlets.

3 Discussion Paper / Questions about Alcoholic Beverages

The OPC supports the Alcohol Policy Coalition's submission to the Labelling Review Secretariat in relation to labelling of alcoholic beverages.

Conclusion

The OPC thanks the Labelling Review Secretariat for this opportunity to inform Australian governments' response to the recommendations of the Review Panel in the Labelling Logic report.

We urge Australian governments to support the adoption of the recommendations by the Review Panel, and most importantly the introduction of an MTL labelling system on the front of food packing and on menus/menu boards in fast food outlets, and the establishment of a national Food Labelling Bureau.

Please contact Nicole Antonopoulos, Legal Policy Adviser, Obesity Policy Coalition on (03) 9635 5251 if you have any questions or need further information in relation to this submission.

5 September 2011