



28 November 2011

Dear Minister,

I am writing to you on behalf of the Australian Dairy Industry Council (ADIC) with regard to the current review of food labelling being conducted under the auspices of the Council of Australian Governments, and the Australian New Zealand Food Regulation Ministerial Council. The ADIC is the peak industry body representing the whole of the dairy value chain and is comprised of Australian Dairyfarmers (ADF – representing dairy farmers) and Australian Dairy Products Federation (ADPF – representing processors, manufacturers and traders).

The industry has, and continues to participate actively in the development and review of regulatory initiatives including FSANZ standards such as food labelling. The industry considers this participation critical to responding to changing consumer needs, to supporting innovation and to leveraging the unique nutritional benefits of dairy foods for the benefit of consumers' health and well being.

Outlined below is a high level summary of the dairy industry's position on food labelling. This is then followed by an in-depth analysis of issues of particular concern.

The dairy industry supports:

- a mandatory labelling system for food that allows for effective communication of food safety and food identification facts to consumers, supports fair competition and fair trade for industry and brand owners, has a high level of compliance and is consistently enforced;
- a voluntary labelling system for food that permits other claims including, but not limited to functional ingredients, nutrition, health promotion, credence claims. Such systems should permit effective communication to consumers, support fair trade for industry and brand owners, have a high level of compliance and be able to be enforced;
- a labelling system that is risk-based proportionate to the level of risk; and
- the use of new technologies and communication channels to complement facts on traditional food labels.

However, the dairy industry

- does not support mandatory health promotion messages to consumers by way of food labels including front of pack labelling.

Cognisant of the role of meaningful and technically correct labelling, the ADIC fully endorses the technical submissions made by Dairy Australia on behalf of the industry, both to the review of food labelling law and policy itself, and as part of the Commonwealth and State and Territory Governments' stakeholder consultation in developing a response to the review.

However, I am writing to share with you industry concerns with some of the recommendations of the review, particularly where unsubstantiated and unscientific claims with popular appeal are being forcefully put.

Specific concerns include:

Reducing the regulatory burden

The genesis of the review was through COAG's commitment 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.

This remit has not been met. The review fails to address opportunities for streamlining regulation such as duplicated roles between the ACCC/consumer law and FSANZ/food regulation, particularly where overarching 'truth in labelling' provisions render specific requirements in food regulation redundant. It also makes premature recommendations for regulatory interventions without due process including consideration of all available evidence and rigorous cost benefit analysis, and fails to consider the goal of international harmonisation in food regulation.

Impact on innovation

Innovation is critical to the global competitiveness and market responsiveness of the dairy industry. Labelling standards need to support this, not deter investment in research and development and product development in Australia. However some recommendations of the review, such as those relating to new technologies and GM, increase the regulatory burden and discourage investment in innovation.

Labelling and public health

The review repeatedly recommends the use of labelling provisions as a medium for public health campaigns without sufficient evidence that these will be effective. Traffic light labelling, for example, provides simplistic information on a limited number of so called 'negative' nutrients, but does not inform consumers about the total nutrient package of the whole food such as its vitamin, mineral, antioxidant or fibre content.

The dairy industry strongly supports the encouragement of the consumption of 'core nutrient rich' foods in accordance with 'Dietary Guidelines'. However, it does not support any form of labelling that focuses on a narrow range of so called 'negative' nutrients as opposed to considering the relationship between the consumption of the food in its entirety and health outcomes.

The dairy industry is proud to take a rational and evidence-based approach to the promotion of the nutritional and health benefits of dairy foods. We are happy to discuss the issues detailed above and urge you to be aware of the significantly detrimental impact that these popular, non scientific proposals could have on the dairy industry, food manufacturers, and importantly the nutritional health of the Australian population.

Further, please find attached a more in-depth analysis of issues of particular concern which may, for various reasons, be overlooked in the Panel's assessment of the review submissions, particularly where unsubstantiated and unscientific claims with popular appeal are being forcefully put.

Yours faithfully

Mr Chris Griffin
Chairman
Australian Dairy Industry Council

Details of Dairy Industry Concerns Regarding Review of Food Labelling

Traffic Light Food Labelling

Traffic light labelling is an attempt to make food choices easier for consumers by labelling them as 'healthy' or 'unhealthy' based on its content of so called 'negative' nutrients. It has been worked out by looking at the fat, sugar and salt content in 100g of a food product and then classifying each of these nutrients as either green for everyday or 'healthy'; amber for sometimes or 'not that healthy'; or red for eat rarely or 'unhealthy'.

Traffic lights provide simplistic information on a limited number of so called 'negative' nutrients, but importantly do not inform consumers about the total nutrient package of the whole food such as its vitamin, mineral, antioxidant or fibre content. For example, when cheese is classified using traffic lights, consumers may be misled into thinking it is an 'unhealthy' food due to its fat and salt content which would receive red lights. However, cheese and other dairy foods are a core food group providing important vitamins and minerals. As well as being the biggest contributor of calcium in the Australian diet, dairy foods provide a package of more than 10 essential nutrients including high quality proteins.

Dairy foods are already an under-consumed food group, with up to 1 in 5 children not eating the recommended 3 serves of dairy every day to meet their daily calcium requirements. Implementing a labelling system that places amber or red lights on dairy foods, such as milk, cheese, or yogurt, will confuse rational interpretation of nutritional information and may discourage consumers from eating these nutrient-rich foods, which would only put the calcium intake and bone health of Australians at further risk.

The dairy industry supports efforts to educate the public about evidence-based healthy eating. However, it does not support any form of labelling that focuses on a narrow range of so called 'negative' nutrients as opposed to considering the relationship between the consumption of the food in its entirety and health outcomes.

Transfatty Acids labelling

Both the Blewett report and WHO recommendations are aimed at reducing industrially produced Trans Fatty Acids (TFA) intake. It is recognised there is convincing evidence that TFA from commercial Partially-Hydrogenated Vegetable Oils (PHVO) increase Coronary Heart Disease (CHD) risk factors and CHD events – more so than had been thought in the past. However, the intakes of ruminant TFAs are low in most populations (including Australia) and there is no conclusive evidence supporting an association with CHD risks in the amounts usually consumed. There is also a moderate level of evidence supporting dairy intake as a protection against CHD.

FSANZ has reported that Australian TFA intake is well below (one of the lowest in the world, 0.5 -0.6%) the WHO recommendation of 1% of population dietary energy intake. The UK also has not mandated TFA labelling as their intakes are also below the recommended 1% of energy under the FSANZ definition of TFAs. Like traffic light labelling, mandatory TFA labelling has the potential to decrease dairy consumption, a core food that is already under consumed, especially in children - a point that was raised in the Labelling Logic report.

Mandatory TFA labelling is not appropriate on the basis that it has been assessed by FSANZ to be unnecessary in Australia and that such a requirement would not only be a cost impost on manufacturers of all sizes, but also potentially reduce the consumption of dairy core foods, which the evidence suggests are cardio protective.

The cost impost combined with a reduction in sales is an unacceptable burden for businesses including farmers and small dairy product businesses that are producing what are essentially core foods.

If it is determined that there is a need for action due to particular foods that still contain unacceptable levels of industrially produced TFA, then effort would be better placed targeting the removal of industrially produced TFA from the identified foods.

GM and New Technology Labelling

With regard to genetically modified foods and other novel food technologies, the Australian regulatory system is currently outcomes focussed, and risk and evidence based. Government agencies such as the Office of the Gene Technology Regulator ensure that “new foods” are rigorously tested for their safety prior to their release in the market place. The proposed labelling of food produced using novel technology for 30 years is tantamount to discrediting government and its agencies. Further, administratively and scientifically testing for novel foods or ingredients over that period would be impossibly complicated and potentially expensive because for many items there is nothing to measure. For example, canola oil derived from GM plants contains no genetic material and is indistinguishable from that produced from non-GM plants.

With regard to GM, to adopt this particular proposed approach to labelling, which implies some unspecified risk, is also ignoring the overwhelming body of scientific evidence that demonstrates no harm to human health. Since 1996 over 1 billion hectares of GM crops have been grown in 29 countries by 15.4 million farmers.

It is essential that science based risk assessments are rigorous and occur concurrently with safety assessments and market development for new and emerging technologies. The assessment of whether a new technology is safe prior to the ability to utilise that technology in the food supply should have sufficient robustness to negate the need for further blanket mandatory labelling requirements, and would be expected to determine appropriate labelling requirements associated with the use of the particular technology.

Further, innovation is critical to the global competitiveness and market responsiveness of the dairy industry. Labelling standards need to support this, not deter investment in research and development and product development in Australia.

The dairy industry does not support the blanket labelling of all new technologies and recommends that policies be developed that allow the integration of innovative new products and processes into the regulatory framework without impeding competition, fair trade (both domestically and internationally) and that apply equally to imported and domestic products.

The dairy industry instead, recommends that regular reviews of consumer perceptions and acceptance of new technologies be undertaken following introduction of innovative products into the market.

Sodium/Salt Labelling

It is acknowledged that sodium is currently identified as a nutrient of concern, however many core foods such as dairy, seafood, pulses, fruits and vegetables are foods recommended to increase consumption to reduce hypertension. Evidence suggests that consumption of dairy foods has an inverse or nil association with increased blood pressure. These foods contain naturally occurring sodium along with other nutrients and these other nutrients in many cases have hypotensive effects.

To label nutrient rich foods that contain, in the main, sodium as opposed to sodium chloride is not only misleading but potentially devalues these foods in the eyes of the consumer by inadvertently sending the message that salt/sodium chloride has been added.

Misrepresentation by labelling sodium as salt opens up potential 'truth in labelling' issues from a 'Trade Practices Act' perspective and further complicates 'no added/free from' claims, creating further confusion for not only the consumer but also manufacturers and enforcement agencies. It may be construed that legitimate labelling for a food that contains sodium, but not salt (NaCl), would be to present a value for sodium and zero for salt (NaCl) – which would be technically correct

Though salt labelling has been implemented in the UK, this has been in the context of vigorous public health campaigns around 'salt' reduction. When considering the adoption of an initiative implemented overseas, the overall context of the initiative must be considered in conjunction with evidence of health outcomes. Public health campaigns focussing on 'sodium' reduction that target nutrient poor foods high in sodium, where consumption is associated with increased risk of hypertension can be more successful in achieving population health outcomes. Labelling that is misleading and discourages the consumption of core foods that are associated with positive health outcomes including reduced risk of cardiovascular disease encompassing hypertension is counter to public health objectives.

Nutrition Policy and Labelling

In the context of a comprehensive Nutrition Policy, recommendation 9 advocates that a framework for the role of food labels be developed as part of the government's national preventative health agenda, and that key aspects of the framework should include:

- Provision of nutrition information and education strategies to promote the health of the population, including articulated roles for food label elements;
- Encouragement of the provision of healthy foods within the food supply to facilitate healthy diets;
- Setting and application of nutrient criteria and dietary guidance;
- Facilitation of social and other research to improve the understanding of how label information is used and its impact on food selection, eating behaviours and the food supply; and
- Establishment of monitoring and surveillance systems for dietary/nutrition practices that include the use and understanding of food labels

On behalf of the industry ADIC strongly recommends that the encouragement of the provision of healthy foods within the food supply to facilitate healthy diets is applied as an underpinning principle which considers encouraging the consumption of 'core nutrient rich' foods in accordance with 'Dietary Guidelines'. An approach applied similarly to all foods, focussing on a narrow range of 'negatively perceived' nutrients of concern can have the inadvertent effect of discouraging consumption of 'core' foods of which increased consumption is associated with improved health outcomes, and consequently desired.

The key dairy food nutrient calcium is already alarmingly under-consumed in some sectors of the population, including children as identified in the 2007 Kids Eat Kids Play survey. Reduced dairy consumption will result in increased risk of under-consumption of not only calcium but also a range of other positive nutrients of concern such as magnesium and iodine. Though some dairy foods may contain saturated fat, salt and sugar, these nutrients are components of a food matrix that also contains essential nutrients including nutrients of concern, such as calcium, iodine and magnesium.

In relation to non-communicable diseases, a 2011 meta-analysis on milk and dairy consumption and incidence of cardiovascular disease indicated that there was a modest inverse association between milk consumption and risk of overall cardiovascular disease. There was no association between total dairy intake and coronary heart disease.

The context of nutrients within a food in its entirety and different health outcomes is demonstrated by the evidence related to dairy consumption, which includes the following:

1. There is insufficient evidence to conclude that increased consumption of dairy products, particularly of regular fat varieties, is associated with weight status.
2. There is no conclusive evidence that consumption of only low fat dairy products will reduce energy intake or risk factors for cardiovascular disease.
3. The evidence to reduce saturated fat and, in particular, saturated fat from dairy foods in order to reduce the risk of CVD is becoming increasingly weak.
4. Consumption of dairy foods has been associated with an inverse effect or no association with increased blood pressure.
5. Moderate evidence shows that intake of milk and milk products is linked to improved bone health, especially in children and adolescents. Moderate evidence also indicates that intake of milk and milk products is associated with a reduced risk of cardiovascular disease and type 2 diabetes and with lower blood pressure in adults.

Reduced dairy consumption is not desirable from a public health perspective. Further to this the combined cost impost of mandated labelling changes and discouraged dairy consumption has the potential to not only affect the large manufacturer, but also to render smaller businesses, such as dairy farms and dairy producers, unviable.

Nutrient Profiling

It is of great concern that 'Nutrient Profiling' as applied to recommendations within the 'Labelling Logic' report including Front of Pack Labelling (FOPL), Menu Labelling (ML), and Health Claims has the potential to inadvertently drive avoidance of 'core nutrient rich' foods such as dairy. Any consideration of the use of Nutrient Profiling must pay heed to reducing consumption or reformulation of foods – which are generally nutrient poor energy dense 'extra' or 'non – core' foods, and conversely encouraging increased consumption of foods which are generally nutrient rich core foods associated with positive health outcomes and often under consumed.

The current applications of nutrient profiling in regards to food labelling in Australia generally discourage the consumption of a number of 'core' dairy foods. In light of the evidence, any consideration of applying nutrient profiling to achieve improved health outcomes must ensure that the consumption of all core nutrient rich dairy foods is not inadvertently discouraged.

Summary of Dairy Industry Position on Food Labelling

The dairy industry supports:

- **a mandatory labelling system for food** that allows for effective communication of **food safety and food identification facts** to consumers, supports fair competition and fair trade for industry and brand owners, has a high level of compliance and is consistently enforced;
- **a voluntary labelling system for food** that permits **other claims** including, but not limited to functional ingredients, nutrition, health promotion, credence claims (e.g. environmental signposting, agricultural and animal husbandry systems that may be used in processing and in some instances processing technologies). Such systems should

permit effective communication to consumers, support fair trade for industry and brand owners, have a high level of compliance and be able to be enforced;

- a labelling system that is **risk based proportionate to the level of risk**; and
- **the use of new technologies and communication channels** to complement facts on traditional food labels. Traditional labels are but one source of information for consumers. Developments in information technology provide alternative and supplementary ways whereby relevant and valuable functional, health promotion information and credence claims required by consumers can be provided in a more rapid, interactive and individualised manner than traditional food labels. The dairy industry supports the use of these technologies (eg smart trolleys, smart barcodes etc) as tools that complement other more traditional ways (eg publicly funded programs, school education etc) of disseminating valid information to consumers.

However the dairy industry

- **does not support mandatory health promotion messages to consumers by way of food labels including front of pack labelling.**