



SUBMISSION

Prepared by
New Zealand Retailers Association

For the
Australian Food Labelling Review Panel

On the
Review of Food Labelling Law and Policy

May 2010

Barry Hellberg
Government Relations Manager
New Zealand Retailers Association
Level 8, Willbank House
57 Willis Street, P O Box 12 086
Wellington

Ph: 04 472 3733
Fax: 04 472 1071
Email: bhellberg@retail.org.nz

Introduction

These submissions are made by the New Zealand Retailers Association.

Background

The Association is the largest trade association involved in the retail industry in New Zealand. We represent an industry that has annual sales of \$66billion and which employs 325,000 people (approx 20% of the New Zealand workforce) in more than 49,000 outlets throughout New Zealand.

Our national membership includes general merchandise chains, specialised chains, traditional department stores, grocery stores, supermarkets and thousands of owner operators spread throughout the country. The membership also includes a number of specialised trade groups representing manufacturers, distributors and retailers in the plumbing materials, metal fastener, pet, equestrian, jewellery, bicycle and sporting goods sectors.

General Submission

We welcome the current review and generally agree with the definition outlined in the paper that food labelling includes information, representation and claims about food that are, or could be regulated under the Australia-New Zealand Food Standards Code or consumer protection laws.

We also accept that the Committee has a challenge to balance the questions of freedom of choice and the right to know as well as considering questions such as consumer awareness and how effectively messages can or are being conveyed to consumers.

Government Drivers Impacting on Food labelling

Question 1: To what extent should the food labelling system be used to meet broader public health requirements?

We do not have any major disagreement with the current objectives prescribed by Food Standards Australia New Zealand which are used when developing or reviewing food standards which are:

- the protection of public health and safety
- the provision of adequate information relating to food to enable consumers to make informed choices and
- the prevention of misleading or deceptive conduct.

We have no particular suggestions to make as to how the food regulatory system be used to meet broader public health objectives.

Question 2: What is adequate information and to what extent does such information need to be physically present on the label or be provided through other means (egg education or website)?

As far as the provision of adequate information to consumers is concerned we accept that some information needs to continue to be physically included on labels.

However an important question that arises is the extent to which consumers understand or actually use the information that is currently contained on existing labels of food sold in Australia or New Zealand. We suggest some independent research needs to be commissioned on this issue as part of the current review.

Question 3: How can accurate and consistent labelling be ensured?

We believe that consumer information can in appropriate circumstances be made available through other means such as websites or point of sale material.

However, we suggest that this is supplementary to information that is physically present on labels for individual items of merchandise.

Question 4: What principles should guide decisions about Government intervention on food labelling?

We believe that suppliers currently provide accurate and consistent labelling as a matter of course as they are well aware of the consequences for not doing so given their responsibilities under the Fair Trading Act 1986.

However, it is often confusing to companies as to what law takes precedence – the Food Standards Code that concentrates on the information that should be included within a food label enforced in New Zealand by the New Zealand Food Safety Authority or the Fair Trading Act enforced in New Zealand by the Commerce Commission which deals with untruthful claims.

Question 5: What criteria should determine the appropriate tools for intervention?

We suggest that Government intervention on labelling is only warranted if the benefits exceed the costs and to that end we are supportive of ongoing regulatory impact reports being prepared on any new regulatory proposals, such as country of origin labelling or front of pack labelling for food.

We are, in fact, supportive of voluntary rather than regulatory approaches in the food sector, like, for example, Codes of Practice.

We are by way of an example currently represented on the Independent Compliance Committee established 15 years ago by the New Zealand Juice and Beverage Association that evaluates the composition and labels of juice and water available for sale within New Zealand retail stores.

A further point to note is that the New Zealand Ministry of Consumer Affairs is currently carrying out a review entitled One Law One Door which is directed towards simplification of the raft of consumer laws that are currently applied in New Zealand.

We consider this review may well have some interrelationship with the current review on food labelling.

Key roles of Food Labelling

Question 6: Is this a satisfactory spectrum for labelling requirements?

We believe that the description outlined in paragraph 3.1 of the discussion paper of the current labelling requirements for both packaged and unpackaged food is accurate.

However, it should also be noted that mandatory country of origin labelling is not required for food within New Zealand and this is not noted in this section of the discussion paper.

Both supermarkets in New Zealand currently voluntarily label fresh fruit and vegetables with the country of origin of particular product lines.

However, the New Zealand Ministry of Consumer Affairs is also currently preparing a Voluntary Code of Practice for single ingredient fresh foods.

Health Safety and Health Claims

Question 7: In what ways could these misunderstandings and disagreements be overcome?

Question 9: In what ways could disclosure of ingredients be improved?

Question 10: To what extent should health claims that can be objectively supported by evidence be permitted?

Question 11: What are the practical implications and consequences of aligning the regulations relating to health claims on foods and complementary medicine products?

We see that the issues set out in these two sections are primarily matters for suppliers or brand owners to comment on.

However, we raise again the question of the extent to which some information required in current labels such as nutritional information, or even daily intake guides, is actually understood or used by many consumers and we accordingly recommend that consumer research be commissioned prior to any new forms of labelling being mandated (such as traffic light labelling or front of pack labelling).

We are in fact opposed in principle to both traffic light and front of pack labelling.

However we are supportive of health claims which we understand has been under study by Food Standards Australia New Zealand for the past decade.

Question 13: To what extent should the labelling requirements of the Food Standards Code address additional consumer concerns, with no immediate public health and safety impact?

Question 14: What criteria should be used to determine the inclusion of specific types of information?

We think it is appropriate that consumers concerns should continue to be taken into account by FSANZ in developing food standards but we do not see that these issues should assume the same importance as public health and safety aspects.

There has, as the Panel will be been aware, been vigorous debate between various groups in New Zealand in past years of whether or not country of origin should be mandated but we do not see this as a public health or food safety issue.

Moreover, mandatory controls were rejected in New Zealand because the costs to producers exceeded the consumer benefits and the scheme accordingly did not proceed.

Question 15: What criteria should determine which, if any, foods are required to have country of origin labelling?

Question 16: How can confusion over this terminology in relation to food be resolved?

As stated, we believe there is a need to standardise the definitions used for origin purposes under differing legislative statues.

On the one hand duty free entry has been permitted under the CER Agreement where items of merchandise concerned have a 50% Australasian content and have their final process of manufacture within the region.

Yet on the other hand differing definitions are applied under the Australian trade practices legislation to describe 'made or produced in Australia or New Zealand'.

Question 17: Is there a need to establish agreed definitions of terms such as natural, lite, organic, free range, virgin, kosher or halal? If so should these definitions be included or referenced in the Food Standards code?

We are supportive of clearer guidance being provided on these definitions

We recommend the Panel consult with the Standards Associations in both countries as for instance an organics standard was published in New Zealand several years ago.

It is additionally likely that Court precedent could have determined definitions for some of the terms outlined in the discussion paper.

Question 18: What criteria should be used to determine the legitimacy of such information claims for the food label?

Question 19: In what ways can information disclosure about the use of these technological developments in food production be improved given the available state of scientific knowledge, manufacturing processes involved and detection levels?

We have no comments on animal welfare or environmental claims or technological developments in food production.

Question 20: Should alcohol products be labelled as a food? If so, should alcohol products have the same labelling requirements as other foods (i.e. nutrition panels and list of ingredients)? If so, how should alcohol products be regulated?

We do not support alcohol products being labelled as food as we see wine consumption for instance is complementary to food consumption.

We do not consider that full nutritional labelling is desirable for alcohol related products.

Food Labelling Presentation

Readability

Question 21: Should minimum font sizes be specified for all wording?

Question 22: Are there ways of objectively testing legibility and readability? To what extent should objective testing be required?

We support the objective of improved legibility but it must be practicable as mandating font sizes would not work on many food packages given the limited space that is available.

If bigger font sizes are pursued, much of the discretionary information may have to be removed.

Comprehensibility and Information Format

Question 23: How best can the information on food labels be arranged to balance the presentation of a range of information while minimising information overload?

Question 24: In what ways can consumers be best informed to maximise their understanding of the terms and figures used on food labels?

We agree with the comment contained in the discussion paper that the rights of consumers to information on which to base informed food purchase decisions need to be balanced against the quantity and complexity of information that can be assimilated.

However, we accept that too much text can deter reading and/or consumer education.

Question 25: What is an appropriate role for Government in relation to use of pictorial icons on food labels?

We believe that the use of pictorial symbols or icons symbols such as the NZ Heart Tick can assist to improve consumer awareness of the benefits of particular foods

Question 26: What objectives should inform decisions relevant to the format of front of pack labelling?

As previously stated we are opposed to front of pack labelling as a matter of principle

Additional a rigorous cost benefit analysis would also need to be completed should any new forms of labelling be considered.

Question 27: What is the case for food label information to be provided on foods prepared and consumed in commercial or institutional premises? If there is a case, what information would be considered essential?

We have no particular views on food labelling information being provided on food prepared and consumed in restaurants or take away shops or in schools or related educational institutions.

Question 28: To what degree should the Food Standards Code address food labelling?

We doubt the necessity for the Food Standards Code to address food advertising.

New Zealand has a widely respected voluntary regime administered by the Advertising Standards Authority that also embraces merchandise supplied to young children and the Fair Trading Act also is designed prevent misleading advertising claims.

We consider accordingly submit that there is no need for further regulatory controls under the Food Standards Code.

Administering and Enforcing Food labelling Standards

Question 29: In what ways can consistency across Australia and New Zealand in the interpretation and administration of food labelling be improved?

We consider food labelling standards are interpreted and fairly applied within New Zealand

Question 31-33 In what ways can consistency, especially in Australia, in the enforcement of food labelling standards be improved etc

While we have no direct experience of the situation in Australia we can appreciate the likelihood of inconsistent decisions bearing in mind that food law has been a matter for interpretation by the individual states or territories.

Clearly the issue would be resolved if the interpretation and enforcement rested with the Federal Government rather than with each state or territory.

Question 34: What are the advantages and disadvantages of retaining Governments primary responsibility for administering food labelling requirements?

Question 35: If a move to self regulation or co regulation would be considered how would such an arrangement work and what issues would need to be addressed?

Question 36; In what ways does such split or shared responsibility weaken the interpretation and enforcement of food labelling requirements?

From a retail perspective the current process of food standards being prepared by FSANZ and enforced by the NZFSA works reasonably well and we can offer no compelling reasons why the current regime should be changed.

However, as previously stated, we do see the need for greater clarity between food law and consumer legislation

Question 37: What are the strengths and limitations of the current processes that define a product as a food or a complementary medicine?

As a matter of principle we are also supportive of ongoing discussions to try and develop a common trans-Tasman regime for foods that could either be classified simply as a food or as a complimentary medicine.

Question 38: What are the strengths and weaknesses of having different approaches to the enforcement of food labelling requirements for imported verses domestically produced foods?

Question 39: Should food imported through New Zealand be subject to the same AQIS inspection requirements?

We see similar principles should determine the enforcement of food labelling for both domestically produced and imported food but note that an imported foods regime is part of the new Food Safety Bill that will shortly be introduced into the New Zealand Parliament.

Conclusion

We commend these submissions for appropriate consideration by the Review Panel and would be pleased to meet the Panel to discuss them in more detail.

New Zealand Retailers Association
May 2010