



2 February 2020

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Dear Dr Studdert

Attached are the comments that the New Zealand Food & Grocery Council presented in the online survey on the *Policy Guideline on Food Labelling to Support Consumers to Make Informed Healthy Food Choices*.

Yours sincerely

Katherine Rich  
**Chief Executive**



***Policy Guideline on Food Labelling to  
Support Consumers to Make Informed  
Healthy Food Choices***

**Submission by the New Zealand Food & Grocery  
Council**

**2 February 2020**

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## NEW ZEALAND FOOD & GROCERY COUNCIL

1. The New Zealand Food & Grocery Council (“NZFGC”) welcomes the opportunity to comment on the ***Call for submissions – Application***.
2. NZFGC represents the major manufacturers and suppliers of food, beverage and grocery products in New Zealand. This sector generates over \$40 billion in the New Zealand domestic retail food, beverage and grocery products market, and over \$34 billion in export revenue from exports to 195 countries – representing 65% of total good and services exports. Food and beverage manufacturing is the largest manufacturing sector in New Zealand, representing 45% of total manufacturing income. Our members directly or indirectly employ more than 493,000 people – one in five of the workforce.

### Summary

3. NZFGC supports a whole of diet approach to food labelling and strongly supports Ministers taking such an approach but it is important to note that individual product labels present specific aspects within the diet and there will always be products in the diet for reasons of diversity, ethnicity and variety.
4. Significantly, the most common and effective intervention for changing consumer choice is education (Perez-Cueto, 2019) and a multi-faceted approach is therefore necessary to effect behavioural change across the population. Product labels on packaged foods are no substitute for the role of Government in raising consumer awareness and education about healthy lifestyles and the value of following Dietary Guidelines.
5. Information for informed choice is already included in a vast array of areas in food standards. It is the use of the information and the level of education of the consumer that tends to make the information impactful. Dietary patterns are population wide, not product specific.
6. We are concerned about the relative weighting given to the competing aims concerning Dietary Guidelines, whole-of-diet recommendations and individual product labels.

#### *Policy Principles*

7. Policy Principle 1: Information on the physical product – NZFGC strongly opposes a policy principle that is directional and that focuses on information on the physical product only for contributing to healthy dietary patterns.
8. Policy Principle 2: Information as a dominant intervention mode – This provision is not a policy principle and is not correct. It is operational and misses the point that providing information in whatever form is useless to a non-receptive or ill-informed population group. Provision of whole of diet information does not sit at the mandatory end of intervention but is firmly within the Preventative Health risk range, that is, where the health impact is more chronic in impact.
9. Policy Principle 3: Labelling for energy content – NZFGC strongly opposes singling out an individual component of a food label as carrying the greatest impact on a healthy body weight. We recommend this policy principle and with its reference to energy be deleted.
10. Policy Principle 4: Information about nutrients – Information about nutrients in Dietary Guidelines are already presented on food labels. There is no national or international standard that deals with ease of understanding. This policy principle is of such breadth as to allow, and indeed support, any form or presentation and is particularly open to misuse for particular ends.

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- NZFGC totally agrees and supports the statement that any information about nutrients on labels should be in a consistent format that enables consumers to compare packaged food products within categories.
  - NZFGC strongly supports the position that one nutrient should not be emphasised above others but strongly opposes exceptions such as are listed for energy and single nutrient containing products.
  - NZFGC considers the element that reads *Nutrients not promoting foods, food groups or dietary patterns not aligned with Dietary Guideline recommendations* of the policy principles to be so dense and as to mean anything to anyone. We are very concerned that the principle could be interpreted such that labelling becomes a *de facto* tool to force safe and edible products off the Australian and New Zealand markets, or prevent the entry of products onto our markets.

#### *Scope*

11. We note alcoholic beverages would be included in scope since they are 'required to bear a label'. We do not believe that there has been a community discussion in either country about treating alcohol as a food alongside products such as cheese, milk, meat or fruit. Inclusion of alcohol needs to be qualified in some way to reflect this.
12. We consider the following additional areas need to be specified as being 'out of scope': level of processing, sustainability, food safety and breast feeding. We support the exemption of 'special purpose foods' (standards in Part 2.9 of the Food Standards Code). A food labelling policy guideline has potential impacts on agencies administering legislation related to therapeutic goods, measurements standards, liquor licencing and fair trading.

#### *Definitions*

13. *Food* – We do not need yet another definition of food. For New Zealand, we have the definition in the Food Act 2014 which takes precedence over the definition in the Australia New Zealand Food Standards Code. We suggest an alternative below.
14. *Nutrient* – NZFGC does not support the definition of nutrient on the basis that we are not aware of any nutritionally unimportant nutrients or harmful nutrients referred to in the Dietary Guidelines. The definition should be amended and recast to more accurately describe what nutrients are referred to.

#### *Context*

15. The whole purpose of a context statement is to ensure the reader is aware of the environment in which the Guideline is intended to operate. It should provide unbiased information to improve usefulness and suitability of the Guideline and not include assumptions or unrelated or unfounded information or partial information to support a particular view.

#### *Dietary Guidelines*

- The Dietary Guidelines are fundamentally about encouraging whole or complete healthy dietary patterns and not individual nutrients. We repeat the importance of highlighting in the context the differences between the Dietary Guidelines of New Zealand and those applying in Australia. The Dietary Guidelines are about 'limiting' foods containing some nutrients but not about 'demonising' them, eliminating them from the food supply or eliminating an individual nutrient.
- NZFGC strongly supports consumers needing education and support to understand how a food product fits within their total diet so that they retain choice.

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### *Food labels*

- The Guideline states that “most consumers chose foods on reasons not health related” based on research that is over a decade old. While the statement is correct as far as it goes, it can be expanded and provide greater insights by reference to more recent papers. The clear message is that nutrition education is the most common, effective strategy implemented to alter food choice with a nutritional aim followed by information on labelling noting that much/all of the labelling researched has already been mandated in Australia and New Zealand or applied voluntarily (such as HSR).

16. NZFGC considers the statement “*food labelling can also facilitate food reformulation*” to be unnecessary and open to abuse. Reformulation occurs with or without food labelling and the primary drivers remain consumer demand and nutrition and medical science.

### *Review and Updates*

17. NZFGC supports regular review and updating of the Policy Guideline along with up-to-date evidence and consultation. We are extremely concerned at the inclusion of “other relevant advice” as this gives no indication about the decision on relevancy or the evidential basis of such advice.

## **COMMENTS**

### **Impact**

18. The impact of the Policy Guidelines will not be known until the final form is determined and the Guidelines are applied. They have the potential to be very affirming and supportive of a robust and fulsome food supply. In their current draft state, they are more likely to be very constraining, anti-innovation and development and a barrier to trade.

### **Aim**

19. The following comments cover the elements in the four paragraphs comprising the Aim.

20. Whole of diet approach to food labelling – NZFGC supports a whole of diet approach to food labelling and strongly supports Ministers taking such an approach. It is vital to note that individual product labels present specific aspects within the diet and there will always be products in the diet for reasons of diversity, ethnicity and variety. It is therefore important that label information is founded on evidence-based facts and that the consequences for international trade (both imports and exports), Codex standards and regulatory best practice are all given weight in the process.

21. Significantly, the most common and effective intervention for changing consumer choice is education (Perez-Cueto, 2019). A multi-faceted approach is therefore necessary to effect behavioural change across the population from young children through adolescence, adulthood to older age.

22. Presenting information for informed choice – Information for informed choice is already included in a vast array of areas in food standards. It is the use of the information and the level of education of the consumer that tends to make the information impactful. Government intervention related to education, knowledge, awareness and access can have a huge impact on delivering behavioural change.

23. Informing choices that support Dietary Guideline aligned dietary patterns – Dietary patterns are population wide, not product specific. As well, the Dietary Guidelines of Australia and New Zealand differ in some major areas. For example, there is greater flexibility in the New Zealand Dietary Guidelines to address dietary patterns of the future and it is very important to recognise such differences. Dietary patterns and dietary

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guidelines provide a context for product labels but product labels on packaged foods are no substitute for the role of Government in raising consumer awareness and education about healthy lifestyles and the value of following Dietary Guidelines.

24. Food labels vs Dietary Guidelines – It is not enough to recognise the difference between specific food labels and whole of diet approaches in the Dietary Guidelines. The question is what impact the recognition has been given to ensure individual food labels are not loaded excessively with whole of diet labelling that have no or very limited impact or based on no or very little evidence
25. We are also concerned about the relative weighting given to the competing aims concerning Dietary Guidelines, whole-of-diet recommendations and individual product labels.

### **Policy Principles**

26. Policy Principle 1: Information on the physical product – NZFGC strongly opposes a policy principle that is directional and that focuses on information on the physical product only for contributing to healthy dietary patterns. This ignores a raft of factors including electronic information, consumer behaviour (eg about timing of meals, snacks and consumption generally), education, awareness and communication mediums. The reliance on the physical product is a regressive and narrow approach for the 21<sup>st</sup> Century which is characterised by the growth of on-line shopping. Even Codex is acknowledging this in its Codex Committee on Food Labelling *Discussion Paper on Innovation* which supports extended labelling and product digitisation.
27. This could be simply addressed by stating that:  
“Healthy dietary patterns of consumers, aligned with the recommendations of the Dietary Guidelines, may be enhanced by information on physical food labels amongst other things.”
28. Policy Principle 2: Information as a dominant intervention mode – This provision is not a policy principle and is not correct. Rather it is an incorrect, directional statement on delivery. It is operational and misses the point that providing information in whatever form is useless to a non-receptive or ill-informed population group.

Provision of whole of diet information does not sit at the mandatory end of intervention but rather, sits in the middle of the mandatory and the self-regulation mode (as already advised by the Blewett Review). The dominant mode of intervention, as made clear by Blewett, is for food safety issues or immediate threats to health (ie where there is an acute health impact). Ensuring consumers are able to act on labelling information aligned to the Dietary Guidelines is NOT at the appropriate end of the labelling hierarchy as proposed in the Guideline. Rather, it is firmly within the Preventative Health risk range, that is where the health impact is more chronic in impact.

29. Policy Principle 3: Labelling for energy content – NZFGC strongly opposes singling out an individual component of a food label as carrying the greatest impact on a healthy body weight. If this was the case, the energy labelling that has characterised beverages under the Health Star Rating system would not be abandoned for the star rating. There is no consistency in the policy decisions being taken in this area. We recommend this policy principle and reference to energy be deleted.
30. Policy Principle 4: Information about nutrients – Information about nutrients in Dietary Guidelines are already presented on food labels under the Nutrition Information Panel and we are therefore supportive of the chapeau for this policy principle. We consider some of

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the criteria to be applied in relation to nutrient information to be open to misuse rather than be evidence-based and make the following observations:

- *Ease of understanding* – there is no international standard that deals with ease of understanding. Many factors are brought to bear to provide consumers with the best opportunity to understand information presented. This policy principle is of such breadth as to allow, and indeed support, any form or presentation and is particularly open to misuse for particular ends. NZFGC asks what benchmark data on ease of understanding across two countries with different population profiles and different dietary guidelines could possibly satisfy this criterion.
- *Consistent nutrient information on labels for comparison* – NZFGC totally agrees and supports the statement that any information about nutrients on labels should be in a consistent format that enables consumers to compare packaged food products within categories. However, the specific purpose of comparison in the Food Standards Code is limited to the specification of the form of the Nutrition Information Panel and to the percentage labelling provisions. Neither is intended to provide comparison across food categories for the simple reason that consumers do not compare the relative merits of an apple versus a fish fillet versus a can of baked beans. In a whole-of-diet approach, it is the range and portions of foods that are important. This element needs to be amended and recast.
  - As well, the Health Star Rating system (HSR) has been in place for five years as a system that promotes comparison ‘within categories’. To suggest comparison ‘across categories’ denies the application of this highly recognisable and supported informational tool for healthy choices and potentially confuses consumers.
- *One nutrient should not be emphasised above others* – NZFGC strongly supports this approach but strongly opposes exceptions such as are listed for energy and single nutrient containing products.
  - Energy is not a nutrient ([www.nrv.gov.au](http://www.nrv.gov.au)) but is required in the body for metabolic processes, physiological functions, muscular activity, heat production, growth and synthesis of new tissues. The main sources of energy are carbohydrates, proteins, fats and, to a lesser degree, alcohol. Including ‘energy’ in a policy statement about nutrients is misleading. It is repetitive of the preceding statement on energy and we recommend deletion
  - The exceptions remove the consistency approach that the policy advocates. Potentially this also applies to positive nutrients such as good fats in edible oils as this would also be a category where a single nutrient is present.
  - More worryingly, the HSR is the current Front-of-Pack (FoP) labelling system that has strong commitment from industry, government and public health. By supporting a single nutrient emphasis in some cases, not only does this contradict the information that the HSR is meant to convey, but it will also compete for real estate on labels and almost certainly discredit the HSR system – causing confusion amongst consumers. There would be little incentive for manufacturers to maintain HSR on those categories of products where a product was demonised on FOP alongside the HSR.
- *Nutrients not promoting foods, food groups or dietary patterns not aligned with Dietary Guideline recommendations* – NZFGC considers this element of the policy principle to be so dense and complex (repetitive of Dietary Guideline recommendations, containing double negatives, covering specific foods, food groups and dietary patterns) as to mean anything to anyone. We are very concerned that the principle could be interpreted such that labelling becomes a *de facto* tool to force safe and

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edible products off the Australian and New Zealand markets, or prevent the entry of products onto our markets.

- Application of labelling regulations must take into account the rights of commercial food companies to sell food products that safe and edible.
- Any labelling other than safety related (such as allergen labelling) which deliberately and substantially diminishes the commercial viability of products should not be imposed and is potentially anti-competitive, a barrier to innovation and a barrier to trade.
- The opportunity to apply multiple interpretations on this element will have a strongly negative impact on the vibrancy and success of the food industry in the future. This element should be removed.

### **Scope**

31. We note alcoholic beverages would be included in scope since they are 'required to bear a label'. We do not believe that there has been a community discussion in either country about treating alcohol as a food alongside products such as cheese, milk, meat or fruit. Trying to minimise the harm of alcohol but treat it like any other food for labelling purposes presents strongly competing ideologies, views and social mores. Inclusion of alcohol needs to be qualified in some way to reflect this so that any standard development that draws on the Policy Guideline must meet additional parameters of application.
32. We consider additional areas require specifying as 'out of scope': level of processing, sustainability, food safety and breast feeding. We note support the exemption of 'special purpose foods' (standards in Part 2.9 of the Food Standards Code) particularly, infant formula products, food for infants and food for special medical purposes.
33. The development of comprehensive food labelling policy guides impacts not only FSANZ and the Ministry of Health (and District Health Boards) and the Ministry for Primary Industry, but also may influence the activities of those agencies administering legislation impacting therapeutic goods, measurements standards, liquor licencing and fair trading. Ideally, this would result in a harmonisation of labelling regulatory requirements, something of benefit to all of government, business and consumers.

### **Definitions**

34. *"Food refers to foods and beverages, including alcoholic beverages"* We do not need yet another definition of food. For New Zealand, we have the definition in the Food Act 2014 which takes precedence over the definition in the Australia New Zealand Food Standards Code. We do not need yet another. If there is a need to define 'food' (and we do not see the need) then defer to the Food Standards Code definition for Australia and we will continue to defer to the Food Act 2014 definition. Alternatively, the Guideline might state in a footnote (not as a definition) at the first occurrence of the term 'food' in the *Aim*, that, "For the removal of doubt, 'food' includes alcoholic beverages".
35. *"Nutrient refers to nutritionally important components (including protective or harmful) referred to in the Dietary Guidelines"* – NZFGC does not support the definition of nutrient in the Policy Guideline. NZFGC asks if there are nutritionally unimportant components or harmful nutrients referred to in the Dietary Guidelines. If so, is there a list to remove doubt. If not, the definition should be amended and re-caste to more accurately describe what nutrients are referred to.

### **Context**

36. The whole purpose of a context statement is to ensure the reader is aware of the environment in which the Guideline is intended to operate. It is to provide further, unbiased information to improve usefulness and suitability of the Guideline to assessment within a



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particular situational context. It should not include assumptions or unrelated or unfounded information or partial information to support a particular view.

#### *Dietary Guidelines*

37. The Dietary Guidelines are fundamentally about encouraging whole or complete healthy dietary patterns and not individual nutrients. We repeat the importance of highlighting in the context the differences between the Dietary Guidelines of New Zealand and those applying in Australia and the importance of these differences in the application of policy. It is also very important to recognise that the demonising of nutrients does not support the important educational concept of how a product can fit within a healthy dietary pattern, which is key.
38. The Dietary Guidelines are about 'limiting' foods containing some nutrients but not about 'demonising' them, eliminating them from the food supply or eliminating an individual nutrient.
39. The third bullet point states: "*The dietary patterns of the the majority of Australians and New Zealanders are not aligned with the recommendations in the Dietary Guidelines*" and references only Australian data to support the statement. If there is no recent New Zealand data, then this is an assumption about the New Zealand population that cannot be made.
40. NZFGC strongly supports that consumers need education and support to understand how a food product fits within their total diet so that they retain choice. This is more than 'a role' but rather is a 'fundamental and vital role'.

#### *Food labels*

41. The Guideline states that "most consumers chose foods on reasons not health related" based on research that is over a decade old. While the statement is correct as far as it goes, it can be expanded and provide greater insights by reference to papers listed below. The clear message is that nutrition education is the most common, effective strategy implemented to alter food choice with a nutritional aim followed by information on labelling noting that much/all of the labelling researched has already been mandated in Australia and New Zealand or applied voluntarily (such as HSR).
42. The last sentence states that "*food labelling can also facilitate food reformulation*". NZFGC considers this statement to be unnecessary and open to abuse. In an environment where best regulatory practice should be relied on to determine the efficacy of applying food labelling mandatorily or voluntarily, this role of food labelling is not a primary driver of reformulation. Reformulation occurs with or without food labelling and the primary drivers remain consumer demand and nutrition and medical science. These factors have driven much of the reformulation undertaken in recent decades and that process is accelerating. Many examples are found in the fortification of foods, the reduction of salt in foods, the replacement of saturated fats with polyunsaturated fats and the addition of beetroot to foods to improve their shelf life and antioxidant properties.
43. If this section remains, and we repeat our view that we think it unnecessary, then it needs to acknowledge the primary drivers of reformulation and acknowledge that they have been working for many years prior to the detailed food labelling regulation we now have. We suggest wording along the lines of:  
"*Reformulation has in the past, and continues to be driven primarily by consumer demand and nutrition science but food labelling can complement this process*".  
This is an impartial, factual contextual statement.

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## Review and Updates

44. “*These Policy Guidelines should be reviewed every 5 years to assess whether they continue to reflect the Dietary Guidelines and other relevant advice, and be updated if necessary*”.

NZFGC supports regular review and updating of the Policy Guideline along with up-to-date evidence and consultation. We are extremely concerned at the inclusion of “other relevant advice” as this gives no indication about the decision on relevancy or the evidential basis of such advice. This might be replaced by “*and other expert, science-based advice*” with some examples in a footnote or in brackets such as reference to the NHMRC, a bilateral expert panel or a FSANZ expert panel.

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