

Review of the Food Standards Australia New Zealand Act 1991 draft Regulatory Impact Statement

**Response to consultation
June 2021**

Recipient

Food Regulation Modernisation, Department of Health
FoodRegulationModernisation@health.gov.au

Dietitians Australia contact

Elizabeth World, Policy Officer
po1@dietitiansaustralia.org.au

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About Dietitians Australia

Dietitians Australia is the national association of the dietetic profession with over 7500 members, and branches in each state and territory. Dietitians Australia is the leading voice in nutrition and dietetics and advocates for food and nutrition for healthier people and healthier communities. Dietitians Australia appreciates the opportunity to provide feedback to FSANZ regarding the draft regulation impact statement on the review of the *Food Standards Australia New Zealand Act 1991* (Cth).

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

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

Summary

All Australians want to enjoy healthy happy lives and live well. Eating healthy foods is a key way we can achieve this. Most Australians try to eat well but struggle to pick healthy foods from shelves full of processed products that claim all sorts of benefits without being truthful about how much cheap saturated fat, sugar and salt they're packed with. The food regulatory system as it stands is not set up to protect Australians from the confusion faced in supermarket aisles. This is by far the most significant public health issue linked to our food system today.

Right now, the government has a ripe opportunity to pioneer a modernised food regulatory system that ends this confusion and puts Australians first.

Policy approaches should be developed to address the policy problem missing from the draft RIS, that the Act does not allow the food regulatory system to meet its objective of protecting public health, specifically chronic and diet-related disease. Policy approaches that would address this policy problem and align with the Aspirations for the Food Regulatory System include, but are not limited to:

- Objectives and statutory functions that enable and prioritise positive long-term health.
- Enable FSANZ to set strategic priorities to address chronic and diet-related disease.
- Comprehensive review of the health claims process to ensure it supports positive long-term health outcomes and informed consumer choice. Appropriate use of health claims, that is to support informed choice and healthy dietary patterns, should be considered in this review.
- Introduction of a practical and timely pathway for public health and consumer stakeholders to request FSANZ review and amendment of the Food Standards Code to address public health issues.
- Resourcing FSANZ to progress public health proposals. Proposals should have no fewer resources than industry applications.
- Set statutory maximum timeframes for proposals, to support prioritisation and resourcing of this work. Statutory timeframes should be no longer than those set for applications.
- Enable FSANZ to monitor and evaluate how operation of the Food Standards Code aligns with public health objectives, and to amend the Code to support alignment.

By implementation of these reforms, we will create a modernised food regulatory system that puts the health of our nation first.

The following table outlines Dietitians Australia's response to specific components and sub-components in the draft RIS.

Option	Component	Text	Stance	
1	1	Retain the status quo.	Oppose	
2	1	Clarifying definition of 'protecting public health and safety'.	Support	
		Aligning wording around public health protection across s 3 and s 18.	Support	
		Expanding the objectives of FSANZ to recognise trade as a core goal.	Oppose	
		Establishing criteria in the Act that the Food Ministers' Meeting must meet to request a review of a draft regulatory measure.	Support	
		Expanding the objectives of FSANZ to address important priorities of food sustainability.	Support	
		Expanding the objectives of FSANZ to include recognition of indigenous culture and expertise.	Support	
		Amend FSANZ statutory functions to align with the objectives of the Act.	Support	
		FSANZ having statutory functions related to food fraud or food crime.	Oppose	
	2	2	Codes of practice and guidelines in place of regulation.	Oppose
			Risk framework.	Oppose
			FSANZ Board delegating to FSANZ some low-risk decisions to FSANZ CEO.	Support
			Food Ministers' Meeting delegating some low-risk decisions to department officials.	Support
			Food Ministers' Meeting delegating to FSANZ Board.	Oppose
			The Act could provide for FSANZ to accept risk assessments from overseas jurisdictions.	Conditionally support
			Introduction of industry self-substantiation pathway.	Oppose
	3	3	Build in flexibility to create bespoke regulatory sandboxes.	Oppose
	4	4	Resourcing FSANZ to undertake more timely, holistic, and regular reviews of food standards.	Support
			Equipping FSANZ to coordinate food safety research across Australia and develop strategic relationships with New Zealand food safety research entities.	Conditionally support
			Positioning FSANZ as the guardian of key food safety databases.	Conditionally support
			Providing for FSANZ to collate and create consumer-facing food safety education materials.	Oppose
			Legislate a function for FSANZ to collect, consolidate and communicate food safety data.	Oppose
	5	5	FSANZ and the Food Ministers' Meeting could undertake periodic joint agenda-setting to agree on the proposals on which to focus.	Conditionally support

Option	Component	Text	Stance
2	5	FSANZ could partner with government to make intelligence-led decisions and reduce duplication of efforts.	Support
		Earlier involvement with the FRSC to understand the potential food safety and regulatory impact of changes to food standards.	Support
		Collaborating with jurisdictional enforcement agencies to identify emerging risks and activate the appropriate regulatory response.	Support
		Enhanced collaboration based around information sharing could also extend to international partnerships with overseas jurisdictions (including standard-setting bodies and other regulators).	Support
		FSANZ's databank available to drive high-quality research and policy work both across and outside government	Conditionally support
	6	Creating a smaller, more explicitly skills-based Board.	Oppose
		The Board could be consolidated to eight people.	Oppose
		Streamlining nomination and appointment processes for board members.	Conditionally support
		Moving to a virtual by default board meeting model.	Support
		Investment into business solutions could help staff work more efficiently.	Support
		Cost-recovery mechanisms.	Oppose
3	1	Provide for FSANZ to coordinate food incident and food recall responses, on its own initiative.	Conditionally support
	2	Including a statement of intent alongside food standards in the Food Standards Code.	Support
		Resourcing FSANZ to update and maintain industry guidelines.	Conditionally support
		Resourcing FSANZ to assist Australian businesses to prepare an evidence dossier to substantiate general health claims.	Conditionally support
		Granting ministerial power to determine what is or is not a food.	Oppose
		Granting ministerial power to determine what is a therapeutic good.	Oppose
	3	Option 1: FSANZ could take on limited enforcement activities.	Conditionally support
		Option 2: FSANZ becomes the single, bi-national regulator.	Conditionally support
4	Clarify legislation so FSANZ can extend Australia and New Zealand's influence on the international stage.	Oppose	

Discussion

Policy problems

1. Aside from the three key Policy Problems identified in this RIS, are there other key Policy Problems that should be considered as part of this regulatory impact analysis? If so, what are they and do they manifest differently in Australia and New Zealand?

FSANZ has achieved the objective of the *Food Standards Australia New Zealand Act 1991* (Cth) (the Act) to protect consumers from short term food borne illness. Now is a prime opportunity to review the objectives to ensure the purpose of the Act fits with the changing health and food environments in Australia and New Zealand.

The three key Policy Problems identified in the RIS are:

1. The Act does not support efficient and effective regulation and is burdensome to administer in its current form.
2. Legislation does not enable a strong, resilient, and agile joint food standards system.
3. Current arrangements undermine the power of a single, joint food standards system.

Missing from the RIS is a policy problem widely recognised amongst consumer and health stakeholders: the Act does not allow the food regulatory system to meet its objective of protecting public health, specifically chronic and diet-related disease. Chronic disease is a significant health problem in Australia, affecting half the adult population.¹ One-third of Australia's burden of disease is attributable to dietary risks and diet-related disease.²

By failing to consider this policy problem of chronic diet-related disease and public health, the RIS does not fulfil the review's Terms of Reference, which call for review of the effectiveness of the Act and FSANZ's operations and responsibilities. Effectiveness of the Act and of FSANZ can only be determined by reference to its objectives – and its ultimate objectives are the protection of public health and the provision of adequate information to enable consumers to make informed choices. The RIS must be revised to include this policy problem, to assess each proposed component of reform against it, and to consider new components that are required to address it. If this is not done, the Act will not achieve its primary purpose of protecting public health.

2. What examples or issues are you aware of in the food regulatory system regarding food sustainability?

EVIDENCE BASE

There is a lack of interdisciplinary collaboration and engagement between environmental science, agricultural science and nutrition science in the pursuit of an evidence base to underpin food system policy in Australia and New Zealand. There is a great need for this to occur, and quickly. Government bodies including FSANZ, NHMRC, CSIRO and the Department of Agriculture could collaborate on this work to support a robust and sustainable food regulatory system.

NEED FOR ACROSS-GOVERNMENT APPROACH

Food policy involves several government departments and agencies, each with a different perspective on the issue. These bodies must work collaboratively to implement the significant changes needed to move toward a sustainable food system required to support the health of Australia and New Zealand.

LABELLING

Informed choice on the healthiness of foods is supported by the Health Star Rating, but there is no labelling system in Australia to support informed choice on environmental sustainability of foods. Any claims on food packaging about sustainability are unregulated and may mislead consumers.

A recent publication in *The Lancet Planetary Health*³ suggests environmental sustainability labelling would support a sustainable and healthy food system. Environmental sustainability labelling would need to be evidence-based, fit-for purpose, appropriate for the unique setting of the Australia-New Zealand food system, and be trusted by consumers.⁴ We recommend type 1 or type 3 labelling as outlined by the International Organization for Standardization⁵ be explored. Additional criteria around healthiness of foods should be applied to prevent environmental claims being used to promote unhealthy foods.

MEASUREMENT

Measurement of environmental impact and sustainability is an area of research attention. Australia is producing great amount of evidence in this area, out of CSIRO. Ridoutt and colleagues'⁶ 2017 review demonstrates the complexity of assessing the environmental impacts of diets.

COMMUNICATION

Communication about the environmental impacts of foods and the food system is a challenge. Interested stakeholders (ie Department of Health, food industry, public health groups, consumers) have diverse perspectives on the issue. Information available to consumers must be evidence-based and free from undue commercial conflicts of interest.

3. What examples or issues are you aware of in the food regulatory system regarding recognition of Indigenous culture and food expertise?

There is currently no requirement in the assessment of novel foods to have regard to whether the novel foods being brought to market are traditional foods of Aboriginal, Torres Strait Islander or Māori peoples. Food expertise of Aboriginal, Torres Strait Islander and Māori peoples should be recognised, particularly the safe consumption and sustainable production of these foods. Further, it should be considered whether commercialisation of traditional foods should be limited to companies owned by Aboriginal, Torres Strait Islander and Māori persons, or approved only with active consultation with Aboriginal, Torres Strait Islander and Māori peoples.

We support a broader consideration of the impact of the food regulatory system, and of individual food regulatory measures, on Aboriginal, Torres Strait Islander and Māori peoples, not only limited to the introduction of new food products.

Option 1: Retain the status quo

4. Would the impact of pursuing Option 1 represent a positive, negative or neutral outcome for your sector?

Negative.

Dietitians Australia does not support Option 1: retain status quo. The status quo does not adequately protect the long-term health of consumers. However, Options 2 and 3 as packaged involve 'less regulatory intervention and associated regulatory burden' (RIS p49). This will come at a cost to public health and consumer interests. We suggest an alternative option in response to questions 47-49.

5. What are the key risks borne by different stakeholder groups for this option? What is the likelihood of these risks, and what would be the magnitude of consequence if they occur?

Consumers (and therefore governments) will be vulnerable to several risks if the status quo is retained. Risks and consequences include:

- Existing market incentives for manufacturers to introduce new unhealthy products
- Limited or misleading information on food packaging that constrains consumer capacity to make informed choices
- Continued upward trend in unhealthy weight for adults and children
- Increasing prevalence of diet-related disease including heart disease and diabetes⁷
- Ongoing quality of life and economic costs of sugar-related dental decay – \$10.5 billion was spent on dental services in 2017-18⁸
- Continued failure to meet objective 2 of the food regulatory system 'supporting the public health objectives to reduce chronic disease related to overweight and obesity'⁹
- Estimated spend of \$8.3 to \$21 billion per year due to direct and indirect costs of obesity^{7, 10-12}
- Failing to meet the targets of the National Preventive Health Strategy¹³ and National Obesity Strategy¹⁴

Processed food companies may incur some costs under the current system due to the requirements of and delays in the application process. However, we do not accept the quantification of these costs in the RIS. We are concerned that in multiple instances (eg p71) the RIS, without analysis, uses costings presented by one industry stakeholder and extrapolates these across industry to attribute a large cost to the failing of the current food regulation system.

6. Do you have any data on hand that will help to quantify the cost of delays when bringing products to market through the current process? If so, please provide these data.

Dietitians Australia does not have data about the cost of delaying bringing products to market. We are concerned that in multiple instances (eg p71) the RIS, without analysis, uses costings presented by one industry stakeholder and extrapolates these across industry to attribute a large cost to the failing of the current food regulation system. This is likely to inflate estimations of the cost to industry.

We discuss the costs of delaying proposals for public health measures in question 7. We reiterate that consumer safety and public health should be prioritised over commercial interests.

7. Are there other costs and benefits (qualitative or quantitative) that should be considered as part of this impact analysis? If so, who would bear these costs and benefits?

The draft RIS does not include costs and benefits related to public health, borne by consumers and governments. The RIS must be revised to consider the following costs and benefits.

Costs

- Poor health attributable to delays in progressing food regulatory measures. For example, there was a significant delay in developing and implementing warning labels for pregnant people on alcohol, despite the health cost of Foetal Alcohol Spectrum Disorder (FASD) of \$27.6 billion over 20 years.¹⁵
- Poor health attributable to dietary patterns. One-third of Australia's burden of disease is attributable to dietary risks and diet-related disease.²
- Social costs of poor health. For example, adults with multiple chronic conditions are less likely to be working than adults with no chronic conditions (67% compared with 83%) and more likely to have a restriction or limitation in everyday activities (50% compared with 7.9%).¹⁶
- Economic costs of poor health and diet-related disease. Obesity alone is estimated to cost Australia \$8.3 to \$21 billion per year.^{7, 10-12}
- Administrative costs to consumer and public health stakeholders of participating in lengthy review processes.

Benefits

- Expenditure savings. For example, \$502 million net saving attributable to kilojoule labelling on fast food menus or \$250.6 million net saving attributable to reformulation of sugar-sweetened beverages to reduce sugar content.¹⁷
- Improved consumer health due to assured safety of foods on market.
- Improved consumer health due to healthiness of food supply.
- Improved consumer health due to information to support informed choices.
- Improved consumer health literacy.

8. Are you aware of any data that may assist in quantifying the magnitude of these costs and benefits? If so, please provide these data.

Quantifying the cost of delays and barriers to implementing public health measures can be assessed by considering existing assessments of the economic and health impact of policy interventions that were delayed under the current system. This same analysis can be used to quantify the benefits of these policies once implemented.

Example: The Ministerial Forum on Food Regulation directed FSANZ to develop a mandatory standard for warning labels for pregnant people on alcohol in October 2018. This work was not completed until 2 years later when the Forum accepted a draft standard in July 2020. The RIS for this proposal estimated the economic cost of Foetal Alcohol Spectrum Disorder (FASD) to be \$1.18 billion per year in Australia and \$171.12 million per year in New Zealand, with the cost of each individual case of FASD estimated at \$75 662. The RIS stated that prevention of just 1.18% (n=183) of FASD cases would offset the costs of the mandatory labelling scheme. Using these conservative figures, each year of delay cost \$13.8 million and a preventable 183 cases of FASD.

9. What risks are borne by your sector as a whole and by different stakeholders under Option 1 (i.e., retain the status quo)?

Consumers will be vulnerable to several risks if the status quo is retained. Risks and consequences include:

- Existing market incentives for manufacturers to introduce new unhealthy products
- Limited or misleading information on food packaging that constrains consumer capacity to make informed choices
- Continued upward trend in unhealthy weight for adults and children
- Increasing prevalence of diet-related disease including heart disease and diabetes⁷
- Ongoing costs of sugar-related dental decay – \$10.5 billion was spent by consumers and the government on dental services in 2017-18⁸
- Continued failure to meet objective 2 of the food regulatory system ‘supporting the public health objectives to reduce chronic disease related to overweight and obesity’⁹
- Estimated spend of \$8.3 to \$21 billion per year due to direct and indirect costs of obesity^{7, 10-12}
- Failing to meet the targets of the National Preventive Health Strategy¹³ and National Obesity Strategy¹⁴

10. What resources (FTE) do you dedicate to monitoring and enforcement of food standards? What are the costs associated with these arrangements? (Note: this question is for jurisdictional regulators)

Not applicable.

Option 2: Modernise the Act to make it agile, resilient and fit-for-purpose

11. Would the impact of pursuing Option 2, Component 1 represent a positive, negative or neutral outcome for your sector?

Negative.

CLARIFYING DEFINITION OF 'PROTECTING PUBLIC HEALTH AND SAFETY'

Dietitians Australia supports clarifying s3 of the Act by including a definition of 'protecting public health and safety'. We agree the definition used should be the same as in the Ministerial Policy Statement on the Interpretation of Public Health and Safety in Developing, Reviewing and Varying Food Regulatory Measures: 'all those aspects of food consumption that could adversely affect the general population or a particular community's health either in the short term or long term, including preventable diet-related disease, illness and disability as well as acute food safety concerns.'

CHANGES TO OBJECTIVES

We support aligning wording around public health across s3 and s18 to 'a high standard of safety and public health protection'.

We do not support expansion of FSANZ objective to recognise trade as a core goal. The protection of public health and safety must continue to be the primary objective of FSANZ. In recognition of the occasional conflicts between public health and trade, it is important that FSANZ has a clearly articulated mandate to promote health over trade.

We support establishing criteria in the Act that the Food Ministers' Meeting must meet to request a review of a draft regulatory measure. This will ensure the interests of public safety and health are prioritised over any undue political influence.

We support expanding the objectives of FSANZ to address important priorities of food sustainability. Sustainability must not be able to be used by the processed food industry to promote unhealthy food that has a negative impact on health, for example, sustainability claims on unhealthy food products. There must also be a clear framework to independently assess sustainability claims to limit 'greenwashing'. FSANZ must play a role in assessing these claims, and industry self-substantiation must not be permitted.

We support expanding the objectives of FSANZ to include recognition of indigenous culture and expertise. We support a broader consideration of the impact of the food regulatory system and of individual food regulatory measures on Aboriginal, Torres Strait Islander and Māori peoples, not only limited to the introduction of new food products. We strongly recommend consultation with peak bodies for Aboriginal, Torres Strait Islander and Māori peoples on how this can best be achieved.

We recommend prioritisation under s18 reads as follows to enable decision-making where public health and safety and commerce conflict:

1. The objectives (in descending priority order) of the Authority in developing or reviewing food regulatory measures and variations of food regulatory measures are:

- a. the protection of public health and safety
- b. the provision of accurate and accessible information relating to food to enable consumers to make informed choices

2. In developing or reviewing food regulatory measures and variations of food regulatory measures, the Authority must also have regard to the following:

- c. the need for standards to be based on risk analysis using the best available scientific evidence
- d. the promotion of consistency between domestic and international food standards
- e. the information required relating to food to enable consumers to make informed choice
- f. the environmental sustainability and minimising the environmental impact of the food supply
- g. recognition of indigenous culture and food expertise
- h. the need to prevent misleading or deceptive conduct
- i. equitable opportunity for good health across population subgroups
- j. the promotion of fair trading in food
- k. support to protect and improve the healthiness of the food supply
- l. support an efficient and internationally competitive food industry.

FSANZ STATUTORY FUNCTIONS

We support changes to FSANZ statutory functions to align with the objectives of the Act, subject to our comments on those objectives above. We also support the inclusion of FSANZ functions to reflect work it is already undertaking and to support its work on issues related to long-term health.

We do not support FSANZ having statutory functions related to food fraud or food crime. These are more appropriate to be handled by the ACCC and other enforcement agencies. FSANZ may support activities related to food fraud and food crime, but these should not be a key focus of FSANZ.

12. If FSANZ’s objectives were broadened to include sustainability, how should sustainability be defined? For example, do you support a limited definition of sustainability (i.e., environmental impacts) or a broad definition of sustainability (i.e., environmental, health, economic and social impacts).

Dietitians Australia prefers use of a broad definition of sustainability including environmental, health and social impacts. Economic impacts should only be considered insofar as they result from environmental, health and social impacts.

The 1987 Our Common Future report by the World Commission on Environment and Development (alternatively, the Brundtland Commission) defined sustainability as ‘development which meets the needs of current generations without compromising the ability of future generations to meet their own needs.’¹⁸ The report identifies four dimensions of sustainability: society, environment, culture and economy. Further reference for a definition of sustainability should be taken from the 2030 Agenda for Sustainable Development,¹⁹ adopted by United Nations member states including Australia and New Zealand.

Regulatory measures should be put in place to prevent environmental claims being used to promote unhealthy foods. There must also be a clear framework to independently assess sustainability claims to limit ‘greenwashing’. FSANZ must play a role in assessing these claims, and industry self-substantiation must not be permitted.

13. What economic opportunities might arise for Australian and New Zealand industry from a greater focus on sustainability?

A greater focus on sustainability will future-proof our agricultural and food sectors in a rapidly changing world. Our food system must change to enable Australia and New Zealand to deliver on our international obligations to reduce carbon emissions and to present as a player in the global market.

Earlier this year, the European Union (EU) resolved to put a carbon price on certain goods imported from outside the EU if these countries are not ambitious enough about climate change.²⁰ In the Asia-Pacific, CSIRO predicts opportunities driven by growth and consumer preferences for sustainable and natural foods could be worth \$25 billion by 2030.²¹ If the Australia and New Zealand food system makes changes to support environmental sustainability, we could command a premium in export markets. Conversely, failure to do so could see a significant drop in desirability of our exports in the global market.

Further, in a world with finite resources, we should encourage a shift towards food production and dietary patterns that are both healthy and sustainable.²²

14. How can FSANZ's activities better recognise indigenous culture and food expertise? Is this the right framing? What differences between the Australian context and the New Zealand context are important to consider? What changes are required to the FSANZ Act to enable this?

Dietitians Australia does not have expertise in this area. We strongly recommend consultation with peak bodies for Aboriginal, Torres Strait Islander and Māori peoples.

15. What economic opportunities might arise for Indigenous businesses from bringing traditional goods to the broader market?

Dietitians Australia does not have expertise in this area. We strongly recommend consultation with peak bodies for Aboriginal, Torres Strait Islander and Māori peoples.

16. Would the impact of pursuing Option 2, Component 2 represent a positive, negative or neutral outcome for your sector?

Negative.

Dietitians Australia supports the concept of facilitating risk-based approaches to developing or amending food regulatory measures. To maintain public confidence in FSANZ's integrity it is critical that the risk-based framework be publicly available and reasons for risk categorisations of all applications and proposals be documented and transparent.

CODES OF PRACTICE AND GUIDELINES

We do not support use of guidelines or codes of practice in place of regulation. Guidelines and codes of practice are non-binding. In the interest of consumer safety and public health, the food regulatory system must be based on regulation, not voluntary, non-binding guidelines or codes of practice.

Guidelines should be used only to explain how to implement food standards. Mandatory codes of practice could be used for measures that require detail and flexibility, for example a code for sustainable packaging. There must be a mechanism incorporated to ensure states and territories also have oversight over these form of food regulatory measures.

RISK FRAMEWORK

We support the concept of adopting a risk-based model. The framework outlined on page 54 of the RIS needs further development, including:

- Extent of risk must explicitly include risks to long-term health, such as diet-related preventable disease.
- Scope of impact must consider not only immediate impacts, but long-term health impacts.
- Existing evidence cannot include industry self-substantiation.

Any application that has an impact on short-term public health and safety or long-term health should not be considered low risk.

The risk framework should be developed outside the legislative reform process. All governments that form part of the food regulatory system must be involved. Wider stakeholder consultation and regular review should occur to prevent negative outcomes.

DELEGATION

We support allowing the FSANZ Board to delegate some low-risk decisions to the FSANZ CEO. This could assist in streamlining decision making processes and reduce delays, while ensuring current processes are followed for decisions that are not low risk. Internal business processes would need to ensure that the Board retains oversight over emerging risks or trends through appropriate reporting arrangements.

We support allowing the Food Ministers Meeting to delegate some low-risk decisions to department officials. This could assist in streamlining decision making processes and reduce delays, while ensuring current processes are followed for decisions that are not low risk.

ASSESSMENTS FROM OVERSEAS JURISDICTIONS

We conditionally support the ability for FSANZ to accept risk assessments from overseas jurisdictions using the minimal check pathway. To some extent, FSANZ already adopts this approach for the use of permitted flavourings. Standard 1.1.2 permits flavours if they are listed in specific publications. Greater harmonisation for low-risk change is appropriate. We do not support automatic adoption of new standards from select international regulatory systems. An expedited process for importing regulation from jurisdictions with equivalent or stronger regulatory processes (eg Canada) may be appropriate. It is important that the system be transparent, credible and risk based. Therefore, if harmonisation is increased it is essential that the scientific and policy bases for FSANZ's decision are publicly available. For certainty for consumers and businesses, the sources of international food safety decisions must be clearly identified and limited to credible and scientifically rigorous agencies such as the EFSA.

INDUSTRY SELF-SUBSTANTIATION PATHWAY

We are strongly opposed to introduction of an industry self-substantiation pathway. Allowing industry to declare their products safe without pre-market oversight represents a fundamental shift away from a preventive system that actively protects public health, to a system that shifts public health risks onto consumers in the pursuit of the food industry's profits. This will weaken our food regulatory system, undermine the primary purpose of the Act of protecting public health and compromise the integrity and independence of FSANZ.

We strongly oppose the proposal to implement this system by exempting products from being listed in the food standards code if they are 'generally recognised as safe' by qualified experts. We note the discussion in the RIS of the risks with this process and the criticism of its misuse in the United States.

We know from Australian experience with health claims that self-substantiation is not effective, and we must not allow its expansion.

17. Do you think this Component (Option 2, Component 2) should also include the ability for the Food Ministers' Meeting to delegate to the FSANZ Board for decision-making? If so, for what decisions should this delegation include?

No. Dietitians Australia does not support the Forum delegating decision-making to FSANZ for low-risk technical amendments, such as processing aids applications. The Food Ministers Meeting delegating decisions to the FSANZ Board removes power from jurisdictions and risks the FSANZ CEO having too much power. This is not aligned with the aspirations for the food regulatory system which state the ministers will lead the meeting of aspiration aims.

18. What types of issues do you think can be appropriately dealt with in codes of practices or guidelines?

Codes of practice or guidelines should not be used to replace food standards. Guidelines should only be used to explain how to implement food standards. Mandatory codes of practice could be used for measures that require detail and flexibility, for example a code for sustainable packaging. There must be a mechanism incorporated to ensure states and territories also have oversight over these form of food regulatory measures.

19. Can you provide data to quantify the administrative burden on industry associated with compiling the required evidence base to support a comprehensive risk assessment by FSANZ?

Dietitians Australia cannot quantify the administrative burden on industry. However, we reiterate that consumer safety and public health be prioritised above commercial interests.

20. Are you aware of any data to demonstrate the potential savings for industry if FSANZ had the statutory ability to recognise and adopt international risk assessments?

Dietitians Australia does not have any data to demonstrate savings to industry. However, we reiterate that consumer safety and public health be prioritised above commercial interests.

21. Would the impact of pursuing Option 2, Component 3 represent a positive, negative or neutral outcome for your sector?

Negative.

Regulatory sandboxes as described in the draft RIS present an unacceptable risk to public health. Every item in the Food Standards Code is designed to be protective and act to prevent harm before it occurs. Allowing the food industry to seek exemptions from food regulation undermines the integrity of the system at the most fundamental level.

The example given on page 61 of the RIS that Standard 1.2.7 Nutrition, health and related claims have an adverse impact on innovation implies that industry profit is more important than consumer protection. If regulatory sandboxes are put in place and products are released with claims that do not meet Standard 1.2.7, consumers will be exposed to misleading messaging. We do not accept the notion that standards around claims on packaging are a barrier to innovation. Those standards do not stop or delay introduction of products to market.

22. What are examples of novel food products and ingredients and new technologies used in the production and testing of food products that could be appropriately and safely introduced using regulatory sandboxes?

Regulatory sandboxes as described in the draft RIS present an unacceptable risk to public health. Every item in the Food Standards Code is designed to be protective and act to prevent harm before it occurs. Allowing exemptions undermines the system and risks consumer health and safety.

23. Would the impact of pursuing Option 2, Component 4 represent a positive, negative or neutral outcome for your sector?

Positive.

RESOURCING FSANZ

Dietitians Australia supports resourcing FSANZ to undertake more timely, holistic, and regular reviews of food standards.

We ask that the RIS incorporate a specific public health review pathway, specifically designed to ensure food standards represent best practice in terms of public health protection. This must include review of existing standards and the capacity to introduce new standards. This process must recognise the resource constraints of public health organisations and enable evidence review by FSANZ.

The review process outlined in the RIS appears to be focused on reducing regulatory burden for the food industry and on short-term food safety issues. This system is unlikely to achieve best practice public health outcomes. To effectively protect public health, the Act must include a specific review pathway that is focused only on public health outcomes. We support efficient regulation, but a review process that is focused on reducing regulatory burden is unlikely to lead to the introduction of meaningful public health measures.

FSANZ AS COORDINATOR OF FOOD SAFETY RESEARCH AND DATABASES

We conditionally support equipping FSANZ to coordinate food safety research across Australia and develop strategic relationships with New Zealand food safety research entities; and positioning FSANZ as the guardian of key food safety databases. FSANZ must have the resourcing to deliver on this as well as core functions. This would provide an opportunity for FSANZ to establish a focused research agenda and ensure efficient allocation and use of resources to support research priorities. Coordinating stronger research linkages across industry, universities, government agencies and private organisations will also facilitate knowledge sharing and maximise the value of research findings.

FSANZ AND CONSUMER-FACING MATERIALS

We do not support providing for FSANZ to collate and create consumer-facing food safety education materials. Consumer-facing materials should come from a body who holds a high level of consumer recognition and trust relating to food and health. Federal and state/territory health departments have greater consumer communication expertise, name recognition and trust to enable effective consumer education in food safety. Partnerships between FSANZ, health departments, Dietitians Australia and the Food Safety Information Council would support unification to food safety across Australia, create efficiencies and eliminate challenges associated with the need to achieve state and territory cooperation.

24. Should a function for FSANZ's to collect, consolidate and communicate food safety data be legislated?

No. It is our understanding FSANZ may fulfil this role without it being legislated.

25. Would the impact of pursuing Option 2, Component 5 represent a positive, negative or neutral outcome for your sector?

Positive.

JOINT AGENDA SETTING

Dietitians Australia conditionally supports FSANZ and the Food Ministers' Meeting undertaking periodic joint agenda-setting to agree on the proposals on which to focus. FSANZ should not be used as a tool to advance political agendas beyond the interests of consumer safety and public health. Public health issues, in particular long-term health and preventable diet-related disease, should consistently be prioritised. Further clarification is needed about how priorities would be set and which party has ultimate decision-making powers.

PARTNERING AND REDUCTION OF DUPLICATION

We support FSANZ partnering with the government to make intelligence-led decisions and reduce duplication of efforts. FSANZ must be given the resources to effectively engage with stakeholders.

We support earlier involvement with the FRSC to understand the potential food safety and regulatory impact of changes to food standards.

We support collaborating with jurisdictional enforcement agencies to identify emerging risks and activate the appropriate regulatory response.

We support international partnerships with overseas jurisdictions. However, this should not result in automatic adoption of overseas assessments or regulations. We discuss this further in our response to question 16.

DATABANK

We conditionally support making FSANZ's databank available to drive high-quality research and policy work across and outside government. FSANZ needs to maintain an up-to-date databank to meaningfully contribute to regulatory decisions, monitoring, and research. Having a centralized database would ensure independence, consistency and sustainability of ongoing monitoring efforts (eg Healthy Food Partnership targets). If a fee-for-service is established for this it should take an equitable approach such as a tiered fee structure so smaller and not-for-profit organisations can access research material.

26. Would stakeholders (including universities, expert food safety bodies or industry) be willing to pay for data or data-linkages services from FSANZ?

Yes, if the data supports their objectives and given it would be a credible source. There are some existing data sources (eg Food Switch database, held by the George Institute and FoodTrack held jointly by CSIRO and the Heart Foundation) that universities and private industry pay to access. The FSANZ offering would need to be at a competitive price and of similar or superior quality. If a fee-for-service is established for this it should take an equitable approach such as a tiered fee structure so smaller and not-for-profit organisations can access research material.

27. Would the impact of pursuing Option 2, Component 6 represent a positive, negative or neutral outcome for your sector?

Negative.

FSANZ BOARD

Dietitians Australia has reservations about a smaller, more explicitly skills-based Board. The current FSANZ Board of 12 members includes only 3 health experts, only 1 of which has expertise in human nutrition. We are concerned that a smaller Board will result in less of a skills mix, particularly nutrition, public health and consumer representation.

The concept of removing the statutory requirement for the Minister to seek nominations from prescribed organisations seems appropriate with the goal of reducing commercial conflicts of interest and industry over-representation. However, this may also reduce public health and consumer representation. If the statutory requirement is removed, there must be clear and transparent criteria for Board member skills mix. Conflicts of interests must also be strictly managed, consistent with the principles of the draft National Preventive Health Strategy.

We support virtual Board meetings as a responsiveness and cost-saving measure.

INVESTMENT INTO BUSINESS SOLUTIONS

Dietitians Australia supports investment to support staff efficiency. We recommend that FSANZ staff are actively consulted on this.

COST-RECOVERY MECHANISMS

Dietitians Australia cautions that intellectual property issues may arise with cost-recovery mechanisms for industry-initiated work. Equity considerations around fast-tracking industry-initiated and -funded work above the interests of public health should be carefully considered.

28. What are the key risks borne by different stakeholder groups for this option? What is the likelihood of these risks, and what would be the magnitude of consequence if they occur?

OVERALL

Option 2 represents a further prioritisation of commercial profits ahead of public health. Many components of proposed reform will create significant public health and economic risks over time by enabling the processed food industry to sell more ultra-processed food that is harmful to health with less oversight and by increasing barriers to public health reform. Option 2 will not meet the primary objective of a modernised food regulatory system to protect public health and will not result in a fit-for-purpose food regulatory system.

COMPONENT 1

Prioritisation of trade presents a risk to consumer safety and public health.

Expanding FSANZ's statutory functions to include food fraud and food crime risks redirection of resources away from the key focus of setting standards to protect consumer safety and public health.

COMPONENT 2

Use of guidelines or codes of practice in place of food standards weakens the food regulatory system and presents a risk to consumers.

The risk framework must not include industry self-substantiation. This would undermine the robustness of the system and leave it vulnerable to manipulation.

The Food Ministers Meeting delegating decisions to the FSANZ Board removes power from jurisdictions and risks the FSANZ CEO having too much power. This is not aligned with the aspirations for the food regulatory system which state the ministers will lead the meeting of aspiration aims.

Automatic adoption of assessments from overseas jurisdictions presents the risk of undermining the rigour of the trans-Tasman system. This may result in decreased consumer safety, poorer long-term health and decreased consumer trust in the food regulatory system.

An industry self-substantiation pathway represents a fundamental shift away from a preventive system that actively protects public health, to a system that shifts public health risks onto consumers in the pursuit of the food industry's profits. This will weaken our food regulatory system, undermine

the primary purpose of the Act of protecting public health and compromise the integrity and independence of FSANZ.

COMPONENT 3

Regulatory sandboxes as described in the draft RIS present an unacceptable risk to public health. Every item in the Food Standards Code is designed to be protective and act to prevent harm before it occurs. Allowing the food industry to seek exemptions from food regulation undermines the integrity of the system at the most fundamental level.

COMPONENT 4

FSANZ becoming a coordinator of food safety research and databases presents the risk of resources being stretched, and redirected from the core function of setting standards to protect consumers. FSANZ must be adequately resourced for any additional responsibilities it is to take on.

FSANZ taking on creation of consumer-facing food safety materials presents the risk of consumers not heeding the advice, or knowing how to access it, due to lack of familiarity with FSANZ. This function is better kept to health departments, Dietitians Australia and the Food Safety Information Council.

COMPONENT 5

Any fee-for-service mechanism should take an equitable approach such as a tiered fee structure so smaller and not-for-profit organisations can access research material.

We caution against international collaboration being used as a justification for automatic adoption of overseas assessments or regulations.

COMPONENT 6

A smaller FSANZ Board without quotas for public and consumer representatives presents a risk of inadequate skills mix on the Board, and insufficient representation of consumer interests.

Cost recovery mechanisms for industry-initiated work may raise intellectual property issues. Equity considerations around fast-tracking industry-initiated and -funded work above the interests of public health should be carefully considered.

29. Are there other costs and benefits (qualitative or quantitative) that should be measured in relation to Option 2? If so, who would bear these costs and benefits?

The draft RIS does not include costs and benefits related to public health, borne by consumers and governments. The RIS must be revised to consider the following costs and benefits.

Costs

- Food-borne illness and poor long-term health attributable to less oversight and less pre-market assessment.
- Poor health attributable to delays in progressing proposals related to public health. For example, there was a significant delay in developing and implementing warning labels for pregnant people on alcohol, despite the health cost of Foetal Alcohol Spectrum Disorder (FASD) of \$27.6 billion over 20 years.¹⁵
- Poor health attributable to dietary patterns, influenced by food supply dominated by unhealthy processed foods. One-third of Australia's burden of disease is attributable to dietary risks and diet-related disease.²

- Social costs of poor health. For example, adults with multiple chronic conditions are less likely to be working than adults with no chronic conditions (67% compared with 83%) and more likely to have a restriction or limitation in everyday activities (50% compared with 7.9%).¹⁶
- Economic costs of poor health and diet-related disease. Obesity alone is estimated to cost Australia \$8.3 to \$21 billion per year.^{7, 10-12}
- Administrative costs to consumer and public health stakeholders of participating in lengthy review processes.

Benefits

- Expenditure savings. For example, \$502 million net saving attributable to kilojoule labelling on fast food menus or \$250.6 million net saving attributable to reformulation of sugar-sweetened beverages to reduce sugar content.¹⁷
- Improved consumer health due to assured safety of foods on market.
- Improved consumer health due to healthiness of food supply.
- Improved consumer health due to information to support informed choices.
- Improved consumer health literacy.

30. Are you aware of any data that may assist in quantifying the magnitude of these costs and benefits? If so, please provide these data.

As these policy options represent a broad suite of reform measures with varying public health impacts, it is difficult to precisely quantify the magnitude of the costs that will result, both qualitative and quantitative. However, there is significant data and analysis quantifying the costs of unhealthy dietary patterns and benefits of addressing unhealthy aspects of the food environment. We have outlined these in our response to question 29.

31. Should the Act provide for more of its work with industry to be offset through cost recovery mechanisms? For example, should FSANZ seek to broaden the types of applications for which it charges fees; should the provision of interpretative advice attract fees; or are there other activities for which FSANZ should cost recover?

Dietitians Australia cautions that intellectual property issues may arise with cost-recovery mechanisms for industry applications. Care must also be taken to ensure applications paid for by industry are not prioritised over proposals in the interest of public health.

It may be appropriate to charge a fee to provide interpretative advice. Any fee structure should have equity considerations including for size of business and whether an organisation is not-for-profit.

32. What would be the impact on industry (especially small to medium businesses) or consumers of FSANZ cost-recovering for a broader range of activities?

Cost recovery on a broad range of activities has the potential to reduce innovation if there are additional financial barriers to bringing new products to market. This would also disadvantage small- and medium-sized enterprises from bringing products to market, compared with large enterprises with more spending capacity. This may lead to a monopoly of the food supply by a low number of large organisations, therefore compromising consumer choice.

Consideration must also be given to the effect of cost-recovery on delaying proposals that benefit public health. Care must also be taken to ensure applications paid for by industry are not prioritised over proposals in the interest of public health.

33. How often do you currently engage with the food regulation system through making applications to change food standards?

Dietitians Australia does not make applications to change food standards. The current system prioritises industry applications and there is not pathway designed for public health organisations to request review and amendment of food standards. Dietitians Australia responds to approximately 5 consultations on applications and proposals per year. This is in addition to engaging with other parts of the food regulatory system such as the Health Star Rating, Healthy Food Partnership and Therapeutic Goods Administration.

Engaging with the food regulation system as it currently stands is resource intensive for public health organisations. Large food industry bodies are advantaged, able to invest greater resources to meet short deadlines, and have survey questions tailored to them for ease in response. The review must consider how this imbalance can be addressed to ensure that public health is prioritised above private profits. One element of reform must include a specific public health review process and a review process for consumers, to seek amendments to the Food Standards Code that are in their interests. The process must recognise the resource constraints of public health and consumer organisations and must enable evidence review by FSANZ.

34. What are the most significant barriers that you or your organisation faces when trying to engage with the food regulation system?

Dietitians Australia members work across several sectors, including public health, food industry, research and clinical practice. Members face barriers including:

- Educating consumers about food labelling to support informed choice
- Combatting misleading food labelling and misinformation (eg health claims, unqualified nutrition influencers on social media)
- Interpreting the Food Standards Code
- Supporting consumers to have healthy dietary patterns when ultra-processed foods dominate the food supply
- Accessing food database information to inform research activities

As an organisation, Dietitians Australia faces barriers engaging with the system due to:

- Short submission deadlines comparative to size of consultation papers
- Consultation questions targeted to industry and difficult to respond to from a public health perspective (eg quantifying costs and benefits)
- Consultations often not asking any questions related to public health or consumer experience
- Consultation questions do not address nuance of policy issues, for example bundling approaches into components and options and requiring a positive/negative response when this may not be appropriate for each approach covered by the question.

The review must consider how this imbalance can be addressed to ensure that public health is prioritised above commercial interests. One element of reform must include a specific public health review process and a review process for consumers, to seek amendments to the Food Standards Code that are in their interests. The process must recognise the resource constraints of public health and consumer organisations and must enable evidence review by FSANZ.

35. Would you be more likely to engage with the food regulation system through the new pathways proposed in this regulatory impact statement? If so, which pathways would you be most likely to use and why?

Dietitians Australia would not be likely to engage with the food regulation system through the new pathways. The pathways are all industry focused and don't allow for public health engagement. The options for reform in this RIS would make it more difficult for public health and consumer stakeholders to engage as the reforms represent a further prioritisation of industry interests and strengthen existing barriers to achieving public health reforms.

The RIS should be revised to include a public health pathway, to enable public health organisations to request review and amendment of the Food Standards Code.

Option 3: Build on FSANZ's role to reinforce the bi-national nature of the joint food standards system

36. Would the impact of pursuing Option 3, Component 1 represent a positive, negative or neutral outcome for your sector?

Neutral.

Dietitians Australia is primarily concerned with consumer protection. We are supportive of the most efficient process to protect consumer health. As stated on page 8 of our response to the FSANZ Act review scoping paper,²³ FSANZ has played a significant role coordinating several trade recalls and is well positioned to deliver on this activity. Moving the power for initiating recalls from states/territories to FSANZ may reduce the double ups in actions for notifiers, lead to quicker responses, and result in more intelligence gathering about risks in the food system. If FSANZ had greater intel at hand, it could add further value in pre-empting incidents and recalls. FSANZ would need to be appropriately resourced if taking on this responsibility.

37. Are you aware of any quantified costs that food businesses have borne as a result of a food incident or recall?

Dietitians Australia does not have data on costs of food incident or recall. We reiterate that consumer safety and public health should be prioritised over commercial interests.

38. Is FSANZ coordinating food recalls/incident response a function that would be equally valuable for Australia and New Zealand?

This may be valuable for Australia. Moving the power for initiating recalls from states/territories to FSANZ may reduce the double ups in actions for notifiers, lead to quicker responses, and result in more intelligence gathering about risks in the food system. We cannot comment on if it is equally as valuable for New Zealand. We note that an approach does not need to have equal value in different jurisdictions for it to be considered.

39. Would the impact of pursuing Option 3, Component 2 represent a positive, negative or neutral outcome for your sector?

Negative.

STATEMENTS OF INTENT

We support including a statement of intent alongside food standards in the Food Standards Code. This will be helpful for stakeholders to better understand what the standard aims to achieve. Standards should also be written in plain English to reduce potential for misinterpretation.

RESOURCING FSANZ TO UPDATE AND MAINTAIN GUIDELINES

We support resourcing FSANZ to update and maintain industry guidelines. However, binding interpretations should be able to be sought by any stakeholder, not just industry.

RESOURCING FSANZ TO ASSIST BUSINESSES TO PREPARE AN EVIDENCE DOSSIER TO SUBSTANTIATE GENERAL HEALTH CLAIMS

We do not support the current system of self-substantiation but agree that guidance is necessary to ensure organisations comply with regulations for general level health claims. We do support FSANZ assessing evidence dossiers substantiating general health claims. The New Zealand Ministry of Primary Industries currently does this to support industry in doing the right thing, and to protect consumer interests. It is essential that claims are substantiated pre-market and are not allowed to

market without being assessed by FSANZ. Companies will not be disadvantaged by this, as products may be introduced to market without claims, and claims added once substantiated and assessed by FSANZ. This may be appropriate to add to Standard 1.2.7 rather than the Act.

We recommend a comprehensive review of the health claims process to ensure it supports positive long-term health outcomes and informed consumer choice. Appropriate use of health claims, that is to support informed choice and healthy dietary patterns, should be considered in this review. Overall health profile of foods with health claims and eligibility criteria for products to use a health claim should also be considered.

MINSISTERIAL POWERS AND RESPONSIBILITIES

We do not support giving the Minister for Health power to determine what is or is not a food. The Minister for Health is rarely a health expert or food regulation expert and would rely on guidance. If the underlying guidance is documented and clear, there should be no need for the Minister to make a determination. Determinations on this are better sat with FSANZ and TGA, the technical experts on this topic.

Similarly, we do not support giving the Minister for Health power to determine what is a therapeutic good. The Minister for Health is rarely a health expert or therapeutic goods expert and would rely on guidance. If the underlying guidance is documented and clear, there should be no need for the Minister to make a determination. Determinations on this are better sat with FSANZ and TGA, the technical experts on this topic.

40. Are you aware of any data to demonstrate the current impost on industry from interjurisdictional inconsistencies in the enforcement of standards?

Dietitians Australia does not have any data to demonstrate savings to industry. However, we reiterate that consumer safety and public health be prioritised above commercial interests.

41. Is the notion of FSANZ taking on enforcement activities equally valuable for both Australia and New Zealand? Why / why not?

This would be valuable for Australia. We cannot comment on if it is equally as valuable for New Zealand. We note that an approach does not need to have equal value in different jurisdictions for it to be considered.

42. Would the impact of pursuing Option 3, Component 3 represent a positive, negative or neutral outcome for your sector?

Neutral.

Dietitians Australia prefers option 2, that FSANZ becomes the single bi-national regulator. This option would provide more consistency in food regulation across Australian states/territories and New Zealand. More consistent food regulation supports consumer safety and public health.

We advise the department consider the following points:

- Resource sharing across jurisdictions.
- Good governance structures if FSANZ is to be the standard setter and standard enforcer.
- What enforcement looks like, for example proactive market monitoring and any penalty systems.

43. Are you able to provide detail on the costs or resources each jurisdiction invests into enforcement activities?

Dietitians Australia does not have data on costs of enforcement in different jurisdictions. We reiterate that consumer safety and public health should be prioritised over cost-saving efforts.

44. Would the impact of pursuing Option 3, Component 4 represent a positive, negative or neutral outcome for your sector?

Negative.

FSANZ's role is to set food standards. Extending this role into food policy steps into the remit of the Food Ministers Meeting and will not be beneficial to the work of FSANZ, public health or consumer interests.

Further, we note that the draft RIS is unclear as to what legislative changes are intended to implement this component.

45. Are there other costs and benefits (qualitative or quantitative) that should be measured in relation to Option 3? If so, who would bear these costs and benefits?

The cost/benefit assessment for Option 3 is not comprehensive. It does not consider any costs associated with the reallocation of FSANZ resources. This may result in further de-prioritisation of proposals and public health outcomes as industry applications are placed at the front of the queue. Further prioritisation of trade and commercial interests will come at the cost of public health. The RIS must assess this cost, both to long-term health of consumers and the subsequent costs for governments.

46. What activities or functions within Option 3 do you think could be supported through cost recovery mechanisms?

Dietitians Australia cautions that intellectual property issues may arise with cost-recovery mechanisms for industry-initiated work. Cost recovery mechanisms also risk compromising the independence of FSANZ.

We reiterate that industry-initiated and -funded work should not be fast-tracked and prioritised above the interests of public health. We strongly recommend the introduction of a public health pathway to request reforms to the food regulatory system.

Overarching views on the RIS

47. Do you think the current options presented in the draft RIS represent the full spectrum of policy approaches that governments might consider?

No. The options presented in the draft RIS do not represent the full spectrum of policy approaches that government should consider. The options presented fail to consider any approach that will enable FSANZ to deliver on its objectives related to protection of long-term public health and enabling consumers to make informed choices. The policy approaches also fail to reflect concerns and recommendations put forward by public health and consumer organisations in earlier consultations.

Option 1, to retain the status quo, will see the current failings of the food regulatory system continue into perpetuity. However, it is preferable to policy approaches in Options 2 and 3 which further prioritise commercial profits at the detriment of public health. Policy approaches should result in a modernised food regulatory system that protects long-term public health and enables consumers to make informed choices.

Other policy approaches should be developed to address the missing policy problem: the Act does not allow the food regulatory system to meet its objective of protecting public health, specifically chronic and diet-related disease. Policy approaches that would address this policy problem and align with the Aspirations for the Food Regulatory System include, but are not limited to:

- Objectives and statutory functions that enable and prioritise positive long-term health (see q11).
- Enable FSANZ to set strategic priorities to address chronic and diet-related disease.
- Comprehensive review of the health claims process to ensure it supports positive long-term health outcomes and informed consumer choice. Appropriate use of health claims, that is to support informed choice and healthy dietary patterns, should be considered in this review.
- Introduction of a practical and timely pathway for public health and consumer stakeholders to request FSANZ review and amendment of the Food Standards Code to address public health issues.
- Resourcing FSANZ to progress public health proposals. Proposals should have no fewer resources than industry applications.
- Set statutory maximum timeframes for proposals, to support prioritisation and resourcing of this work. Statutory timeframes should be no longer than those set for applications.
- Enable FSANZ to monitor and evaluate how operation of the Food Standards Code aligns with public health objectives, and to amend the Code to support alignment.

By implementation of these reforms, we will create a modernised food regulatory system that puts the health of our nation first.

48. Which components of each reform option do you consider to be your sector's highest priorities?

We do not support any components of either Options 2 or 3 in their current form. While some elements could be implemented, none of these components should be prioritised above changes that would realise the aspiration of a modernised food regulatory system that protects and promotes public health. Priorities for a modernised food regulatory system must include:

- Objectives and statutory functions that enable and prioritise positive long-term health (see q11).
- Enable FSANZ to set strategic priorities to address chronic and diet-related disease.
- Comprehensive review of the health claims process to ensure it supports positive long-term health outcomes and informed consumer choice. Appropriate use of health claims, that is to support informed choice and healthy dietary patterns, should be considered in this review.
- Introduction of a practical and timely pathway for public health and consumer stakeholders to request FSANZ review and amendment of the Food Standards Code to address public health issues.
- Resourcing FSANZ to progress public health proposals. Proposals should have no fewer resources than industry applications.
- Set statutory maximum timeframes for proposals, to support prioritisation and resourcing of this work. Statutory timeframes should be no longer than those set for applications.
- Enable FSANZ to monitor and evaluate how operation of the Food Standards Code aligns with public health objectives, and to amend the Code to support alignment.

By implementation of these reforms, we will create a modernised food regulatory system that puts the health of our nation first.

Alignment with draft Aspirations for the Food Regulatory System

49. Do you think that the reform options presented in the draft Regulatory Impact Statement align with the draft Aspirations for the Food Regulatory System? Which option and why / why not?

No. The draft Aspirations for the Food Regulatory System reflects genuine consultation with stakeholders and a positive focus on public health. Reform options in the draft RIS do not at all align with the draft Aspirations.

Reform options aligned with the draft Aspirations would:

- Address challenges and opportunities related to poor nutrition and obesity continuing to impact on public health.
- Respond to consumer expectations for improved product quality, environmental sustainability and ethical production.
- Enable consumers to make informed choices about food by ensuring that they have sufficient information and by preventing them from being misled.
- Support public health objectives by promoting healthy food choices, maintaining and enhancing the nutritional qualities of food and responding to specific public health issues.
- Enable the existence of a strong, sustainable food industry to assist in achieving a diverse, affordable food supply.

None of the proposed reform options do this. The reform options must be completely reworked with significantly greater consideration for public health.

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