

Mr Mark Bethwaite  
c/o Food Regulation Secretariat  
PO Box 4  
WODEN ACT 2606

Dear Mr Bethwaite

### **Comments of the Bethwaite Report**

The Public Health Association of Australia (PHAA) is a forum for the promotion of the health of the public as well as being a professional resource for public health personnel. The Association has a national and multidisciplinary perspective on public health issues and welcomes this opportunity to provide a written response to the Bethwaite review.

The PHAA welcomes this review and acknowledges that a considerable number of the current food regulation processes are cumbersome. However, while we are concerned about the complexities of the Food Standards Australia New Zealand (FSANZ) processes, we believe that it is important to recognise that this review provides an opportunity to not only resolve these issues but also to address the importance of public health and public health expertise in the regulation of the food industry. The public's health must be the paramount consideration in the review of the regulation of the food industry.

The comments provided below reflect oral comments provided by a number of PHAA members at the recently held public forums, as well as the three central themes identified as part of this process.

#### **Consistent legislation**

The PHAA believes that there is an inadequate and inconsistent approach to the protection of public health and safety in the current legislative approach to food regulation. In particular we would note:

- There is no definition of 'protecting public health and safety' although this is the primary objective in setting food standards. We contend that this has, and could again, lead to confusion over what should constitute protecting public health and safety, especially where there are countervailing issues about industry viability being discussed.
- The Bethwaite review does not contain any explicit explanation as how the protection of public health and safety will be achieved/guaranteed at a systemic level through the identification of streamlining of the food regulatory framework. To some extent these may be seen to be conflicting objectives, and the PHAA believes that the Bethwaite review needs to provide a better

measure of public health and safety measures in this review than simply postulating that public health and safety can be met through risk management measures.

- With the increasing push by the food industry to allow a variety of health claims, formal and informal, there is a need for the review to specifically consider the potential impact of streamlined processes on scientific, public health and consumer concerns around such claims. This review should extend to assessing the potential impact of streamlined processes on assessment of additives, especially those such as phytosterols that are new food products. The PHAA considers that it would be judicious to include population health principles in the regulatory framework.

### **Consistent implementation**

The PHAA considers that Australia currently lacks a national food and nutrition information system. The inconsistent and infrequent food and nutrition surveys do not provide an adequate system for the provision of baseline data nor the monitoring of food changes. Consequently, the current system lacks appropriate data to allow the monitoring and evaluation of new and existing food regulations.

Without such a system, it is not possible for regulators to evaluate the potential outcomes of proposals from the food industry across the Australian population and its many sub-populations. Also, it is impossible for the food regulators to monitor the effects of changes implemented by the food industry.

Any review of the current food regulation framework in Australia must address the need for consistent and regular food and nutrition data collection, and acknowledge the need for specific sub-populations to be targeted.

### **Improved governance**

Food regulation is subject to conflicting requirements – a perceived need for information to be protected as ‘commercial-in-confidence’ by the food industry, and a widely held perception that there must be transparency about food regulation and the information involved in decision-making, by public health and consumer stakeholders. This perception of conflicting requirements is exacerbated by the perception that the food industry has a greater and more open access to those responsible for the governance food regulation than is afforded public health and consumer stakeholders.

Generally public health and consumer stakeholders do not have resources levels such as those available to the private sector. Consequently, it is difficult for them to consistently access and participate in the food regulatory system's decision-making processes. In proposing the streamlining of regulation, consideration must be given to providing greater support for such stakeholders as a matter of open governance.

Similarly, it is important that the review consider requiring consistent approaches to consultation processes with non-industry stakeholders. Current statutory timeframes imposed in consultations are often inadequate for public health and consumer group preparation of submissions. Such problems could be partially overcome if the

regulatory bodies could undertake the publication of a 12-24 month rolling workplan. This would enable stakeholders to allocate time and resources to the most critical issues.

Where stakeholder's submissions are summarised such summaries must be checked with the originating submitters in order to avoid accidental misrepresentation of stakeholder perspectives.

Overall, the PHAA is opposed to the proposal to assess (high level) health claims without at least the current level of public consultation. The consultation opportunities currently associated with setting of food standards provides a minimum acceptable level of transparency and access to governance. The PHAA believes that any lessening of these requirements would leave the system subject to considerable concern as to how conflicts of interest have been resolved. Such a lack of transparency would be of particular concern as health claims are an explicit public health and safety issue.

Should you find it useful, the PHAA would be happy to discuss the issues raise above, and the general terms of the review at a convenient time. I can be contacted on (020 62852373 or at [plaut@phaa.net.au](mailto:plaut@phaa.net.au)

Yours sincerely,

Pieta Laut  
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