Public Health Association of Australia
submission on the Review of Fast Food Menu Labelling Schemes

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PHAA submission on review of fast food menu labelling schemes

Contents

Preamble

The Public Health Association of Australia

Vision for a healthy population

Mission for the Public Health Association of Australia

Introduction

PHAA Response to the consultation paper

Introduction

1. Are you aware of any other pending or completed evaluations that have relevance to the Australian experience? If yes, please provide results and references with your response where possible.

Part A – Inconsistency in legislation between jurisdictions

2. Are there any other issues in relation to exempt businesses that should be considered?

3. What could be done to ensure kilojoule information is available in as many outlets as possible? What are the pros and cons of your suggested approach?

4. Are there any other issues in relation to legibility that should be considered?

5. What can be done to ensure kilojoule information is as easy to use as possible by the consumer?

6. What can be done to facilitate businesses to address legibility issues? What are the pros and cons of your suggested approach?

Part B – Changing trends in the fast food industry

7. Are there any other issues in relation to menu customisation that should be considered?

8. What could be done to enable healthier choices when customising menu items? What are the pros and cons of your suggested approach?

9. Are there any other issues in relation to rolling menu boards that should be considered?

10. What could be done to ensure kilojoule information is easy to access and that consumers can compare products easily? What are the pros and cons of your suggested approach?

11. Are there any other issues in relation to online ordering that should be considered?

12. What could be done to ensure kilojoule information is included on all web-based ordering platforms?

13. Are there any other issues in relation to combination meals that should be considered?

14. What could be done to ensure kilojoule information is provided for the whole meal? What are the pros and cons of your suggested approach?

Part C – Difficulties of interpretation

15. Are there any other issues in relation to additional and interpretive information that should be considered?

16. What could be done to ensure kilojoule information is as easy to interpret as possible? What are the pros and cons of your suggested approach?
PHAA submission on review of fast food menu labelling schemes

17. Are there any other issues in relation to kilojoule display that should be considered? ........... 10

18. What could be done to ensure kilojoule information is as easy to use and interpret as possible? What are the pros and cons of your suggested approach? ................................................................. 10

19. Are there any other issues with current menu labelling schemes that should be considered during this review? Please provide information to support your response........................................ 10

Conclusion .................................................................................................................................................. 11

References................................................................................................................................................... 12
Preamble

The Public Health Association of Australia

The Public Health Association of Australia (PHAA) is recognised as the principal non-government organisation for public health in Australia working to promote the health and well-being of all Australians. It is the pre-eminent voice for the public’s health in Australia. The PHAA works to ensure that the public’s health is improved through sustained and determined efforts of the Board, the National Office, the State and Territory Branches, the Special Interest Groups and members.

The efforts of the PHAA are enhanced by our vision for a healthy Australia and by engaging with like-minded stakeholders in order to build coalitions of interest that influence public opinion, the media, political parties and governments.

Health is a human right, a vital resource for everyday life, and a key factor in sustainability. Health equity and inequity do not exist in isolation from the conditions that underpin people’s health. The health status of all people is impacted by the social, cultural, political, environmental and economic determinants of health. Specific focus on these determinants is necessary to reduce the unfair and unjust effects of conditions of living that cause poor health and disease. These determinants underpin the strategic direction of the Association.

All members of the Association are committed to better health outcomes based on these principles.

Vision for a healthy population

A healthy region, a healthy nation, healthy people: living in an equitable society underpinned by a well-functioning ecosystem and a healthy environment, improving and promoting health for all.

Mission for the Public Health Association of Australia

As the leading national peak body for public health representation and advocacy, to drive better health outcomes through increased knowledge, better access and equity, evidence informed policy and effective population-based practice in public health.

Introduction

PHAA welcomes the opportunity to provide input to the review of fast food menu labelling schemes. The reduction of social and health inequities should be an over-arching goal of national policy and recognised as a key measure of our progress as a society. The Australian Government, in collaboration with the States/Territories, should outline a comprehensive national cross-government framework on promoting a healthy ecosystem and reducing social and health inequities. All public health activities and related government policy should be directed towards reducing social and health inequity nationally and, where possible, internationally. The PHAA understands that intent of the menu labelling legislation is to provide consumers with easy-to-understand nutrition information at the point of purchase in order to make healthier choices.
PHAA submission on review of fast food menu labelling schemes

PHAA Response to the consultation paper

Introduction

1. Are you aware of any other pending or completed evaluations that have relevance to the Australian experience? If yes, please provide results and references with your response where possible.

The PHAA is aware of a number of relevant research and review articles which have been published in the last two years. Most of the available research focuses on the effect of menu labelling on consumer awareness and behaviour. Less research is available investigating whether mandatory kilojoule disclosure has an impact on kilojoule content of menu items.

Highly relevant to the Australian context, a recent study by Wellard-Cole and colleagues examined the energy (kilojoule) content of Australian fast-food menu items over seven years, before and after introduction of menu board labelling, to determine the impact of the introduction of the legislation on kilojoule content of menu items. This study only focused on five large chains (Hungry Jack’s, KFC, McDonald’s, Oporto and Red Rooster) but found that overall there were no significant or systematic decreases in energy (per serving and per 100g) following the introduction of menu labelling from 2009 until 2015. This outcome is disappointing, given one of the outcomes of menu labelling could be to encourage reformulation across a large sector of foodservice in Australia, which has the potential to positively influence population nutrient intake.

Other research available examines changes primarily in the USA context as a result of mandatory menu labelling being introduced. A meta-analysis by Zlatevska published in 2017 examined the efficacy of menu labelling legislation in the United States in reducing restaurant based food calorie consumption. Specifically, the research explored the likely effect of the policy on both consumer and retailer behaviours. This research identified 186 studies investigating the effect of calorie disclosure on calories selected by consumers, and 41 studies examining the effect of calorie disclosure on calories offered by retailers. A ‘significant and unequivocal calorie disclosure effect for menu labels’ was found, with fewer calories selected (-27 Calories) and fewer calories offered (-15 Calories). Interestingly, the effect size for real-world studies was -48 Calories. A systematic review by Bleich et al published around the same time identified nine prior menu labelling reviews from 2008 until 2016, and in contrast to the Zlatevska study, considered study quality. This review also focused on research completed in the U.S. and found that with the higher quality studies (N = 14) there was a null overall effect. However, when synthesising the results from only the three studies with the strongest research design (which show a 15 calorie reduction, null result and 150 calorie reduction) the overall estimate might be a positive reduction in calories, similar to the magnitude reported by Zlatevska.

In summarising the above reviews, it could be concluded that menu labelling may have a modest impact on reducing the energy levels of fast-food purchases, but the evidence of effect has been shown to vary across settings, study designs and context. This conclusion is further supported by a Cochrane Review published in 2018. From 3 randomised control trials identified in this review, the authors found that menu labelling reduced the amount of energy purchased by 47 calories. However, the authors concluded that ‘Findings from a small body of low-quality evidence suggest that nutritional labelling comprising energy information on menus may reduce energy purchased in restaurants. The evidence assessing the impact on consumption of energy information on menus or on a range of food options in laboratory settings suggests a similar effect to that observed for purchasing, although the evidence is less definite and also of low quality.’

The Cochrane Review suggested that further high quality research is needed in real world settings to enable more certain conclusions.
PHAA submission on review of fast food menu labelling schemes

PHAA recommendations

The PHAA recommends that:

- further high quality research is conducted in real world settings to enable more certain conclusions about the impact of menu labelling on consumer behaviour and reformulation of menu items; and
- further high quality research is conducted in real world settings to evaluate menu labelling implemented in conjunction with a consumer education component.

Part A – Inconsistency in legislation between jurisdictions

2. Are there any other issues in relation to exempt businesses that should be considered?

The PHAA recommends that the implementation of menu labelling legislation must focus on the type of food that is sold, and not the business at which it is sold or the setting in which it is sold. Taking this approach would create a level playing field and broaden the application of the legislation to chain or franchised businesses selling discretionary style foods which are standardised for portion size and ready-to-eat as sold, such as cinemas, convenience stores, service stations, retail outlets and catering based in Government settings (children’s settings, healthcare) and vending machines.

Equity issues for rural and remote

Current exemptions for small supermarkets and convenience stores contribute to inequity not only for the industry where some businesses are captured, and others are not based simply on floor space, but also for people living in regional, rural and remote areas. In many cases, the local supermarket may be the main provider of takeaway meals for the population and therefore people living in these towns do not have access to information that may help them make healthier choices, thereby widening the gap in health outcomes. If menu labelling is considered an educational tool to increase awareness and understanding of kilojoule information, people living in rural and remote areas lacking businesses displaying this information do not have any opportunity to benefit from this initiative.

Outlet thresholds

The PHAA supports a position that greater flexibility in outlet number thresholds would broaden the application of the legislation to include those businesses with the resources to cope with the regulation impact. It is good practice for larger businesses to know the nutritional content of the food they are selling and these businesses would have the resources to either manage this process in-house or employ the services of a consultant to do so. Even individually owned franchises of large businesses sell standard food items and use consistent menu boards and therefore could pool resources to comply with regulations. In doing this, it is important that these businesses absorb the cost of complying with the legislation, rather than passing the costs onto the consumer.

The PHAA supports an investigation of the option to adopt the Australian Bureau of Statistics (ABS) definition of a small business being one which employs fewer than 20 people, and therefore application of the menu labelling legislation to medium – large businesses. The PHAA would also support investigation of reducing the state/territory based outlet threshold to 10 stores.

3. What could be done to ensure kilojoule information is available in as many outlets as possible?

What are the pros and cons of your suggested approach?

The PHAA recommends that the National Principles and Guideline Definitions are reviewed and amended to address inconsistencies in legislation between jurisdictions, and to deal with innovations from the food industry which have occurred since the National Principles were developed in 2011, such as digital menus, customised menus, and online ordering through third party providers.
PHAA submission on review of fast food menu labelling schemes

The scope and application of menu labelling legislation should be based the type of food that is sold, and not the type of business at which it is sold or the setting in which it is sold. This could be achieved by amendments to the Guideline Definitions accompanying the National Principles. Currently a Standard Food Outlet is defined as a ‘food business at which Standard Food Items are sold’, [emphasis added] which fails to capture all businesses selling traditional ‘quick service’ standard food items offered for sale ready-to-eat direct to the consumer, for example burgers, hot chips, donuts, bakery products, hot chicken, ice cream, juices and pizzas (as noted in the Guideline Definitions). Cinemas, service stations, convenience stores and vending machine companies are not necessarily food businesses, however they do sell Standard Food Items, many of which are what the Australian Dietary Guidelines describes as ‘discretionary foods’, a definition of which is as follows: “foods and drinks not necessary to provide the nutrients the body needs, but that may add variety. However, many of these are high in saturated fats, sugars, salt and/or alcohol, and are therefore described as energy dense. They can be included sometimes in small amounts by those who are physically active, but are not a necessary part of the diet”. Higher intakes of these foods are associated with increased risk of obesity and chronic disease such as heart disease, stroke, type 2 diabetes, and some forms of cancer.

The PHAA recommends consideration of using the principles for identifying discretionary food and drinks from the Australian Dietary Guidelines, and the Australian Bureau of Statistics classification for the 2011-12 National Nutritional and Physical Activity Component of the Australian Health Survey (2014). Making this change would effectively remove exemptions for businesses that sell standard food items which meet the classification of discretionary foods.

All businesses that are displaying kilojoule information, whether voluntary or mandatory, must do so in the way set out by regulation, to avoid confusion for the consumer. The User Guides available in NSW and Queensland provide easy-to-understand instructions on how to calculate kilojoules and how to display kilojoule information. Strategies to further enhance business understanding of the requirements of the legislation could include online education, targeted workshops, and development of user-friendly ‘how-to’ guides.

4. Are there any other issues in relation to legibility that should be considered?
Legibility of kilojoule information should consider those people with vision impairment (particularly colour), with the possible introduction of audio tools to assist.

5. What can be done to ensure kilojoule information is as easy to use as possible by the consumer?
The PHAA recommends that all existing legislation and any future legislation be amended to be consistent with the Queensland Food Regulation 2016 which requires nutrition information be displayed in the same font, font size and colour, and displayed at the same time as the name and/or price of the menu item. Consumer understanding of kilojoules remains limited. The PHAA recommends the most effective strategy to ensure kilojoule information is as easy to use as possible by the consumer, is a comprehensive and nationally consistent consumer education campaign. This would increase awareness and understanding of kilojoule information, and in particular, how to use this information in the context of consumers’ daily dietary intake. Elements of this campaign should also include information on how to use kilojoule information in the context of a healthy balanced diet according to the Australian Dietary Guidelines. This campaign should be government funded and evaluated for impact, with evaluation results publicly available.
6. **What can be done to facilitate businesses to address legibility issues? What are the pros and cons of your suggested approach?**

The PHAA recommends that all existing legislation and any future legislation be amended to be consistent with the Queensland Food Regulation 2016 which requires nutrition information be displayed in the same font, font size and colour, and displayed at the same time as the name and/or price of the menu item. User Guides should also be updated to reflect the intent of the legislation, ensuring consistency in interpretation across jurisdictions.

**Part B – Changing trends in the fast food industry**

7. **Are there any other issues in relation to menu customisation that should be considered?**

PHAA does not have anything further to add to this question.

8. **What could be done to enable healthier choices when customising menu items? What are the pros and cons of your suggested approach?**

PHAA supports the position that all items on customisable menus are required to display kilojoule content, including single ingredient items that can be added to regular menu items. All menu items are standardised for portion, and therefore will be standardised for kilojoule content. It is acknowledged that it may not be possible to provide summative information for customisable menu items without the use of a digital menu ordering system, but at the very least, consumers should have the information available to be able to make the calculation themselves.

Strategies which could be used to enable healthier choices when customising menu items include:

- Requiring all menu items, including optional standardised single ingredient items, to display kilojoule content;
- Working with food industry to offer the ‘healthiest’ version of an ingredient as the default option, for example, water as a drink, reduced fat cheese instead of full fat cheese;
- Providing consumers with an ordering system which automatically sums all ingredients chosen by the consumer – this information could be provided at the cashier station similar to the price if not publicly available to the consumer;
- Providing a pricing differential to encourage addition of healthier ingredients such as extra salads, vegetables and fruit;
- Working with food industry to set reformulation targets for single ingredients, for example, reducing salt and sugar level in sauces, reducing saturated fat and sodium content of meats and cheeses, increasing fibre and reducing salt content of breads.

9. **Are there any other issues in relation to rolling menu boards that should be considered?**

PHAA does not have anything further to add to this question.

10. **What could be done to ensure kilojoule information is easy to access and that consumers can compare products easily? What are the pros and cons of your suggested approach?**

The PHAA recommends that all existing legislation and any future legislation be amended to be consistent with the Queensland Food Regulation 2016 which requires nutrition information be displayed in the same font, font size and colour, and displayed at the same time as the name and/or price of the menu item. This would ensure that the consumer is at least able to determine the kilojoule content of each menu item on rolling menu boards, however it is acknowledged that this would still not provide the opportunity to compare menu items. A strategy which may resolve this is to require an instore static display of a full menu that lists all items with the required font and colour for price and kilojoule content. This could also be provided as a paper menu, and online.
PHAA submission on review of fast food menu labelling schemes

11. Are there any other issues in relation to online ordering that should be considered?
Large chain and franchised businesses that currently use third party delivery agents to facilitate food and drink delivery may not be subject to menu labelling legislation in most jurisdictions (Victoria excepted) as they do not offer a traditional takeaway service from the business. Therefore, if third party agents were required to comply with menu labelling legislation, there may be some chain restaurants that are captured under the legislation. The PHAA considers this to be a positive outcome of any change.

12. What could be done to ensure kilojoule information is included on all web-based ordering platforms?
The PHAA recommends that the National Principles are reviewed and amended to address inconsistencies in legislation between jurisdictions, and to deal with innovations from the food industry which have occurred since the National Principles were developed in 2011, such as digital menus, customised menus, and online ordering through third party providers. This issue could be resolved by updating the definition of a Standard Food Outlet to a food business at which Standard Food Items are sold. Removing ‘food’ from the description of businesses that sell Standardised Food Items would effectively broaden the reach of the legislation to all businesses from which Standardised Food Items can be ordered, including third party delivery agents. With the functionality of online ordering platforms, the feasibility of providing kilojoule information may be enhanced compared to static point-of-sale in-store displays. Sufficient lead-in time for business and implementation support may reduce resistance to the inclusion of online platforms to menu labelling policy.

13. Are there any other issues in relation to combination meals that should be considered?
PHAA does not have anything further to add to this question.

14. What could be done to ensure kilojoule information is provided for the whole meal? What are the pros and cons of your suggested approach?
The intent of the menu labelling legislation is to provide consumers with easy-to-understand nutrition information at the point of purchase to make healthier choices. The National Principles state that a meal combination is to be treated as a single standard food item and therefore the kilojoule information displayed should be for the whole meal. Therefore, the PHAA supports the position that all food and drink items that are sold in a combination meal be included in a calculation of kilojoules for that meal, regardless of whether menu items included in the meal are a pre-packaged item or not. User Guides should be updated to reflect the intent of the legislation, with the pre-packaged item exemption removed, ensuring consistency in interpretation across jurisdictions.

Part C – Difficulties of interpretation

15. Are there any other issues in relation to additional and interpretive information that should be considered?
The PHAA considers that the evidence for additional and interpretive information on menu boards is still emerging. Therefore, further research on different methods for additional and interpretive information such as physical activity equivalents, traffic light guide, ranking of items according to kilojoule content is recommended. Dunford et al investigated using the Health Star Rating System (HSR) system in fast food restaurants and found that the data supports the idea that the HSR system could be extended to Australian fast food. Current limitations of the HSR system are acknowledged and further research is recommended once the HSR five year review is completed.
16. What could be done to ensure kilojoule information is as easy to interpret as possible? What are the pros and cons of your suggested approach?
Consumer understanding of kilojoules remains limited. Therefore, the most effective strategy to ensure kilojoule information is as easy to use as possible by the consumer, the PHAA recommends a comprehensive and nationally consistent consumer education campaign which increases awareness and understanding of kilojoule information, and in particular, how to use this information in the context of consumers’ daily dietary intake. Elements of this campaign should also include information on how to follow a healthy balanced diet according to the Australian Dietary Guidelines.

The PHAA would also raise concerns regarding the continued use of the reference statement: ‘The average adult daily energy intake is 8700kJ’. This reference intake of 8700kJ was sourced from the Food Standards Code and fails to represent the current average daily energy intake of most Australians and can be misleading as a contextual reference for the kilojoule intake for individual consumers. Many men, most women and all children would have recommended energy intakes below 8700kJ per day.

17. Are there any other issues in relation to kilojoule display that should be considered?
Evidence suggests that the effectiveness of menu energy labelling for consumers with a lower socioeconomic position may be more limited compared to more socioeconomically advantaged consumers. Areas with low levels of numeracy or health literacy may require more significant consumer education support to ensure the initiative is effective.

18. What could be done to ensure kilojoule information is as easy to use and interpret as possible? What are the pros and cons of your suggested approach?
The PHAA recommends that display of kilojoule information should be consistent regardless of where it is displayed. The intent of the legislation is to give consumers easy-to-understand nutrition information at the point of ordering, and ready-to-eat foods sold in supermarkets should be no exception to this. Legislation should be amended to require supermarkets to display kilojoule information per menu item, instead of per 100g of the product for those products that do not have a Nutrition Information Panel. Under the current situation, if a consumer orders a ready-to-eat meal item that weighs 450g, they would then be required to multiply the per 100g number by 4.5 to arrive at the full kilojoule content per serve of the item.

19. Are there any other issues with current menu labelling schemes that should be considered during this review? Please provide information to support your response.
Given the contribution of dietary risk to health burden in Australia, the PHAA recommends that more comprehensive nutrition information is made available to consumers in fast food outlets. Research carried out by Wellard et al in 2012 found that the availability and accessibility of nutrition information (including values for saturated fat, sugar and sodium) in fast food outlets declined following the introduction of menu labelling legislation in NSW.

According to the IBISWorld Industry Report H4512 Fast Food Services in Australia, the ‘fast food industry has been transformed by growing consumer awareness of the importance of healthy eating over the past five years. Australians have become increasingly health-conscious due to public campaigns discouraging unhealthy lifestyles. It is important that initiatives such as menu labelling contributes to this increasing consumer demand for healthier eating options by further informing consumers of the nutritional content of food sourced from outside of the home.'
Conclusion

PHAA supports the broad directions of menu labelling legislation and supports the principle that that any change should contribute to improving public health outcomes. However, we are keen to ensure implementation of legislation meets the intent, that is, to provide consumers with easy-to-understand nutrition information at the point of purchase to make healthier choices. We are particularly keen that the following points are highlighted:

- The PHAA recommends that the National Principles and Guideline Definitions are reviewed and amended to address inconsistencies in legislation between jurisdictions (exemptions, display of nutrition information), and to deal with innovations from the food industry (digital menus, online ordering) which have occurred since the National Principles were developed in 2011. Menu labelling legislation must be based on the type of food that is sold (with a focus on discretionary foods), and not the type of business or the setting at which it is sold.
- The PHAA recommends that all existing legislation and any future legislation be amended to be consistent with the Queensland Food Regulation 2016 which requires nutrition information be displayed in the same font, font size and colour, and displayed at the same time as the name and/or price of the menu item.
- The PHAA recommends the most effective strategy to ensure kilojoule information is as easy to use as possible by the consumer is a comprehensive and nationally consistent consumer education campaign which increases awareness and understanding of kilojoule information, and in particular, how to use this information in the context of consumers’ daily dietary intake. Elements of this campaign should also include information on how to use kilojoule information in the context of a healthy balanced diet according to the Australian Dietary Guidelines. This campaign should be government funded and evaluated for impact, with evaluation results publicly available.
- The PHAA recommends that further high quality research is conducted in real world settings to enable more certain conclusions about the impact of menu labelling on consumer behaviour and reformulation, particularly in conjunction with a consumer education component.
- The PHAA recommends that menu labelling legislation is part of a coordinated approach to nutrition in Australia and the anticipated work of the Foodservice Working Group of the Healthy Food Partnership can set reformulation targets enabling the food industry to contribute to energy reduction in fast foods.

The PHAA appreciates the opportunity to make this submission and the opportunity to represent the views of our members on a policy which has the potential to improve population health.

Please do not hesitate to contact me should you require additional information or have any queries in relation to this submission.

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References


