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

About this submission

The George Institute for Global Health is pleased to contribute to the Review of the Food Standards Australia New Zealand Act 1991 Draft Regulatory Impact Statement.

The George Institute has considerable concerns with the Draft Regulatory Impact Statement. It fails to recognise and address the key issue consistently raised by public health organisations – that our food regulatory system does not meet its primary goal of protecting public health, particularly long-term health and preventable diet-related disease.

The system requires reform, but this must be done in a way that supports the health and wellbeing of the community. Unfortunately, the proposals within this Draft Regulatory Impact Statement would seriously undermine future efforts at protecting public health.

The George Institute strongly recommends that the Review acknowledge the cost of inaction on diet-related disease and put public health measures first. This priority will help ensure that our food regulatory system is equipped to effectively protect the community, prevent diet-related disease and promote a resilient and productive population into the future.

About The George Institute for Global Health

The George Institute is a leading independent global medical research institute established and headquartered in Sydney. It has major centres in China, India and the UK, and an international network of experts and collaborators. Our mission is to improve the health of millions of people worldwide by using innovative approaches to prevent and treat the world's biggest killers: non-communicable diseases (NCDs) and injury.

Our work aims to generate effective, evidence-based and affordable solutions to the world's biggest health challenges. We research the chronic and critical conditions that cause the greatest loss of life and quality of life, and the most substantial economic burden, particularly in resource-poor settings.

Our food policy team works in Australia and overseas to reduce death and disease caused by diets high in salt, harmful fats, added sugars and excess energy. The team conducts multi-disciplinary research with a focus on generating outputs that will help government and industry deliver a healthier food environment for all.

Acknowledgement of Country

The George Institute acknowledges the Gadigal People of the Eora Nation as the Traditional Custodians of the land on which our Australia office is built and this report was written. The George Institute acknowledges the Wurundjeri people of the Kulin Nation, where this report was also written.

We pay our respect to Elders past, present and emerging.

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?

The George Institute for Global Health recommends that the following key Policy Problem, not referred to in this draft Regulatory Impact Statement (RIS), be considered as a priority: that the current Food Standards Australia New Zealand Act 1991 (the Act) and the reforms proposed do not enable the food regulatory system to meet its goals of:

(i) protecting public health – particularly long-term health and preventable diet-related disease; and,

(ii) providing adequate information to enable consumers to make informed choices.

For example, there is currently little mention in the RIS of how the proposed reforms will address the current failure of the market to provide Australians and New Zealanders with a healthy food supply. This is seen by the predominance of energy-dense, nutrient-poor foods and products high in added sugars, saturated fat and sodium in the market, and the considerable burden of disease and other risk factors for disease attributable to preventable dietary risks.

This Policy Problem has been highlighted by public health and consumer groups during previous consultations and the draft RIS must be revised and updated with consideration of these concerns. The George Institute recommends each proposed component of reform be considered against this neglected Policy Problem, and for new components to be included as reform options where required. Without this focus, the Act will not effectively achieve its primary purpose of protecting public health.

Overall, The George Institute has concerns about the potential ramifications of the proposals in the draft RIS for the health of Australians and New Zealanders who rely on government regulation to ensure a healthy food supply. Two in three Australian adults and one in four children are currently overweight or obese. Obesity is estimated to cost Australia $8.6 billion annually.[1] Diet-related non-communicable diseases (NCDs) such as heart disease, type 2 diabetes and some cancers are Australia's biggest killers.

The World Health Organization recommends a comprehensive suite of 'best-buy' policy interventions to promote healthier diets at a population level and prevent disease, many of which involve food regulation. These include improvements to labelling, standards for food composition and restrictions on marketing unhealthy products.[2]

While there has been some implementation of these initiatives in Australia, such as the Health Star Rating front-of-pack nutrition label, voluntary salt targets from the Healthy Food Partnership, the Beverage Council's sugar reduction pledge, and industry codes marketing

of unhealthy products to children, have demonstrated sub-optimal progress in delivering health benefits, largely due to their voluntary nature.[3-7] These examples highlight the importance of stronger, mandatory food regulation to improve food environments and support long-term public health protection. This includes having a Food Standards Australia New Zealand Act that supports Food Standards Australia and New Zealand (FSANZ) to contribute to further work in this area. While the RIS acknowledges the need for greater clarity in the Act to encapsulate both acute and long-term health elements, discussed on page 53, more serious consideration of long-term public health protection is required throughout the Act.

In addition, The George Institute believes current processes of cost-benefit and risk analysis underpinning government consideration of regulatory alternatives to address population diets require review. Value judgments inherent in which costs and benefits are considered in these calculations' present barriers to the uptake of evidence-informed regulatory strategies to prevent diet-related disease. For example, an immediate cost to industry of submitting an application is much easier to ascribe a dollar value than the increased utility of labelling to consumers of a mandatory front-of-pack nutrition label, or the potential costs saved by individuals being supported to adopt healthier dietary patterns in the long-term.

The populations for which regulatory costs are considered are businesses, community organisations and individuals, but this does not account for other important risks, for example, long-term costs to governments and health care systems of treating preventable NCDs.[8] This is a clear oversight in judging how policy benefits society. Design of these processes may favour solutions that address immediate health and safety risks – for example, food safety regulations – but are less equipped to address the widespread, long-term impact of unhealthy diets across the population that will be felt far beyond the food regulatory system.

The limited benefits of voluntary regulation and the ongoing costs of diet-related NCDs provide grounds for rethinking regulatory impact mechanisms. The George Institute recommends review of these mechanisms to more holistically account for the costs of inaction on unhealthy food environments and preventable diet-related disease to individuals, communities and governments.

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

As noted in the RIS, there is increased global recognition of the connection between sustainable food systems and population health outcomes.[9] This global concern is gaining momentum in Australia and New Zealand, with public health advocates and consumer groups recently calling for environmental sustainability to be addressed in Australia's current update of the Australian Dietary Guidelines. Sustainable food systems have also been recognised as a protective factor in the draft National Preventive Health Strategy.[10] Consumers are also increasingly becoming aware of the environmental impact of their food choices and the broader food system.

The George Institute recommends that the food regulatory system plays a role in supporting the environmental sustainability of food systems in Australia and New Zealand. For instance, as noted by the RIS, food manufacturers are currently able to make unregulated claims regarding the environmental sustainability of products – for example, "dolphin safe" tuna – leading to situations where consumers cannot easily identify the veracity of these claims. To make a meaningful contribution to planetary health and to improve consumers' ability to

make informed choices, the food regulatory system should involve government-led labelling requirements, including monitoring and enforcement, to provide objective, evidence-based ratings of environmental impact displayed on all products.

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

First Nations voices and knowledges are often missing, or go unnoticed, from decision-making processes where subsequent policy has profound impact upon communities. The profound connection to food and food practices for First Nations peoples is part of a sovereign connection with Country (land and waters). For First Nations communities, food represents more than nutrition, and provides an important social activity and opportunity to pass down knowledge from Elders to younger people and is a vital way to care for and connect with Country.

The George Institute recommends that First Nations voices and knowledges are meaningfully included in the food regulatory system. Priorities and challenges relating to food systems must be identified by and with community, and communities must be enabled and equipped to implement community-identified solutions that respect First Nations knowledges.

Recognition and application of First Nations food knowledges and practices reflects an enduring strength and resilience in ancient food cultures, including sophisticated agricultural and aquacultural techniques that have often been overlooked or poorly understood since colonisation of Australia. Recognition and integration of these practices that can supplement Western-based diets can contribute to improved health and wellbeing of Aboriginal and Torres Strait Islander communities. The George Institute recommends the Act and the food regulatory system play a role in improving health outcomes with Aboriginal and Torres Strait peoples. The system should be designed to promote measures that improve equity and protect the short- and long-term health of Aboriginal and Torres Strait Islander peoples, and these measures are enacted with communities – not separate to them.

The George Institute notes that in addition to including recognition of First Nations culture and expertise in the objectives of the Act, assessment of how food regulatory measures impact Aboriginal and Torres Strait Islander peoples more generally should be included, and engagement with communities should be ongoing to monitor impacts.

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

The George Institute considers that Option 1 would have **negative** outcomes for public health, given the slow current progress in using food regulation to effectively address long-term diet-related disease, but overall represents a more positive outcome than Options 2 and 3. Options 2 and 3 introduce new and potentially harmful mechanisms that will involve “less regulatory intervention” but have consequences for health outcomes. For this reason, the status quo, which the draft RIS acknowledges takes a proactive, preventive approach and has “managed to largely prevent the market failures that they are designed to address”, represents a better outcome for public health and informing consumers than proposed Options 2 and 3.

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?

The George Institute believes the current food supply fails to provide a healthy food environment for the community, with unhealthy diets a leading cause of death and disability in both Australia and New Zealand. Beyond direct health outcomes and their associated treatment costs, conditions such as overweight and obesity, type 2 diabetes and heart disease, impose significant economic costs on individuals, governments and the private sector due to productivity losses. These risks already occur – and are extremely likely to continue – with enormous consequences for society. In Australia alone, obesity is estimated to cost Australia $8.6 billion a year.[1] The George Institute notes that the options and components proposed elsewhere in this draft RIS have potential to significantly increase the direct and indirect costs of this health burden.

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?

The George Institute wishes to note that rigor, transparency and substantiation in estimating any claims of cost of delays will be required to satisfy stakeholders and the public. Current examples in the RIS are not representative of the application process in general. They also do not meet the Australian Government Guide to Regulatory Impact Analysis requirement that all data sources and calculation methods are transparent, and that any gaps or limitations in the data are discussed and assumptions disclosed in every case.[8] The clearly inappropriate extrapolation of an unsubstantiated claim of considerable cost to industry on p. 7 of the draft RIS provides an exemplar of our concerns. It is also clear that “opportunity costs”, theoretically incurred while an application is processed, do not include consideration of the benefit of a proactive and preventive approach to public health. Nor does it consider the harm and cost that individuals, communities and governments may be exposed to were any deliberative processes to be accelerated or replaced (as with Option 2).

In assessing the cost of delays in bringing products to market, the RIS must also assess the cost of delays in processing proposals for public health measures. The 2010 report[11] prepared for FSANZ during the consideration of pregnancy warning labels on alcohol is an example of such an analysis. The report conservatively estimated an additional $66 million cost per annum to Australian taxpayers for additional services required for new fetal alcohol spectrum disorder births. Given the lengthy delay in approving and applying pregnancy warning labels, this represents a considerable and increasingly unsustainable cost to individuals and governments.

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 George Institute endorses the Obesity Policy Coalition's response to this question:

> Yes, the RIS must assess in detail the qualitative and quantitative impact of this option on public health, in particular the health and economic costs and benefits to long-term public health and diet-related preventable disease.
>
> The RIS states (p18) its analysis draws out the regulatory impact for four key stakeholder groups, including public health – however it repeatedly fails to analyse the regulatory impact for public health. The RIS must be revised to include this analysis.
>
> Costs and benefits that must be considered for option 1 include:
>
> *Costs:*
>
> - The health and economic costs borne by consumers and governments due to delays in progressing food regulatory measures to promote public health. This can be assessed by reference to costs saved and health risks reduced by existing public health measures that were delayed under the current system. See a case study below in response to question 8.
> - The health and economic costs borne by consumers and governments due to food regulatory measures that do not effectively address long-term public health, including preventable diet-related disease. This can be seen in measures that are either not progressed at all or that do not represent best practice public health measures due to the prioritisation of industry interests ahead of public health.
> - The administrative cost to public health and consumer organisations of participating in lengthy, delayed processes to review and amend food standards.
>
> *Benefits:*
>
> - The health and economic benefits borne by consumers and governments of the current system of regulatory approvals that largely assesses that products are safe before they are put on the market.
> - The health and economic benefits of the current system in that it limits the number of new unhealthy food products on the market.

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.

The George Institute supports the material submitted by the Obesity Policy Coalition:

> 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. Analysis for Options 2 and 3 must consider the effect of proposed reforms, both on the speed of the process to implement public health measures, and

on the likelihood that the reforms make public health measures less likely or less likely to reflect best practice.

Case Study: Pregnancy warning labels on alcohol

The recent proposal for pregnancy warning labels on alcohol provides a good case study on the economic costs and health impacts of delays in progressing public health proposals in the current food regulatory system.

In October 2018, the Australia and New Zealand Ministerial Forum on Food Regulation agreed that a mandatory standard should be developed and asked FSANZ to develop it as a priority. This work was completed in July 2020 when Ministers accepted a proposed draft standard. Time to complete the proposal was a few months under two years.

The cost of this delay can be assessed by referring to the analysis in the Decision Regulatory Impact Statement (DRIS) for Pregnancy Warning Labels on Packaged Alcoholic Beverages, published October 2018. This DRIS quantified the economic cost of Foetal Alcohol Spectrum Disorder (FASD) in Australia and New Zealand, estimating it at AUD$1.18 billion per year in Australia and NZ$171.12 million per year in New Zealand, with the cost of each individual case of FASD estimated at AUD$75,662. The DRIS is unable to predict the exact number of cases of FASD that will be prevented as a result of the labelling change, however the analysis concluded that only 183 cases of FASD in Australia per year, representing 1.18% of the total FASD cases per year in Australia, would need to be prevented to offset the costs of the mandatory labelling scheme. Even using this very conservative figure of 1.18% of cases, the economic cost per year incurred for each year of delay is estimated at AUS$13.8 million, while the health impact is 183 additional individuals living with FASD.

The RIS must include analysis of this type to provide a complete picture of the costs of the current system. Similar analysis must also be undertaken for Options 2 and 3. With analysis for those options assessing the impact of proposed reforms on both the process and outcome of public health measures. For example, pregnancy warning labels are significantly less likely to be implemented in their current form under the reforms proposed in Options 2 and 3, because of the increased importance given to trade and business concerns. This brings with it a significant health and economic cost, as outlined above.

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

The George Institute strongly believes that, taken as a package, Option 2, Component 1 represents a **negative** outcome for public health and consumers as it suggests an elevation of industry's commercial interests at the potential expense of the priority that should be given to public health and safety, as the Act outlines. Limited elements of this component do make a positive contribution and The George Institute's support for those should not be taken as endorsement of the current proposal. We support the Obesity Policy Coalition's positions on each element of Option 2 Component 1, as expanded upon below:

1. Clarifying the definition of public health to include prevention of long-term diet-related disease: The George Institute supports clarifying S3 of the Act by including a definition of protecting public health and safety as per 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.” The George Institute also supports aligning wording around public health across S3 and S18 to “a high standard of safety and public health protection”.

2. Rejecting introduction of trade as a core goal: The George Institute strongly opposes this element. The elevation of trade is unnecessary; the draft RIS acknowledges that the status quo, which does not include trade as a core objective, ‘has delivered good ...trade outcomes over many years’. This has been achieved because FSANZ must have regard to an efficient and internationally competitive food system and include the promotion of consistency between domestic and international food standards when making decisions. Beyond this, elevating the importance of trade as a core objective has the potential to promote industry profit as a key outcome while increasing barriers to evidence-based food regulatory measures that will promote and protect public health. Evidence of this can already be seen, for example, in consideration of whether to make the Health Star Rating front-of-pack nutrition labelling system mandatory. Despite consumers currently only receiving the benefit of the Health Star Rating System on 41% of products,[12] food industry peak associations have actively opposed mandating of the system on trade grounds. In recognition of the occasional conflicts between public health and trade, it is important that FSANZ has a clearly articulated mandate to promote long-term health outcomes over trade and economic outcomes.

3. Inclusion of environmental sustainability: The George Institute supports the inclusion of environmental sustainability as a core goal of the Act, if measures proposed do not compromise the prioritisation of public health goals. Appropriate measures include the regulation of false, specious or unsubstantiated claims so that the processed food industry cannot ‘greenwash’ unhealthy products.

4. Inclusion of First Nations culture and expertise: The George Institute supports the inclusion of First Nations culture and expertise in the objectives of the Act. We support a broader consideration of the impact of the food regulatory system, and of individual food regulatory measures, on Aboriginal and Torres Strait Islander people, not only limited to the introduction of new food products. It is crucial that First Nations knowledges are respected, community engagement is meaningful, and solutions are self-determined.

5. Including the regulatory impact on industry, particularly small business, as a factor for which FSANZ must have regard: The George Institute strongly opposes the inclusion of regulatory impact on industry as a factor for which FSANZ must have regard when setting food standards. The only purpose of this factor will be to create a barrier for changes to food standards that would protect public health. As demonstrated extensively throughout the RIS, the impact of regulation on business is already considered by FSANZ as part of its process in developing and amending food standards.

6. Further changes to S18 and role of FSANZ: Option 3, Component 4 also appears to be an amendment to the objectives or items that FSANZ for which must have regard under S18. The George Institute does not support any amendment to enable FSANZ to extend Australia and New Zealand’s influence on the international stage.

7. Establishing criteria in the Act that the Food Ministers' Meeting must meet to request a review of a draft regulatory measure: The George Institute support establishing criteria that Food Ministers must meet to request review of a draft regulatory measure.

The George Institute support changes to FSANZ's 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.

The George Institute do not support the extension of FSANZ's role from 'standard setting' into food policy. As noted in the draft RIS, the Food Ministers' Meeting is the "body that sets the policy direction for the joint food standards system" (p.15) and this role should remain in the Food Ministers' hands.

The George Institute do not support a broad extension to FSANZ's functions in food fraud and undertaking education campaigns. In our view, FSANZ may play a supportive role in these issues but they should not be a key FSANZ focus.

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).

As carbon contributors, the food system and its regulators have a responsibility to decarbonise the sector as much as possible. The George Institute supports the inclusion of sustainability in FSANZ's objectives – with the understanding that this encompasses social, economic and environmental needs. The George Institute, however, recommends that the term 'sustainability' be used within the context of values statements rather than policy setting. Where policy is concerned, we recommend the terminology be specific in terms of carbon emissions reductions, rather than vague use of the term sustainability. This might include the consideration of packaging and transport.

Any reference to sustainability must be trusted by and meaningful to consumers, and independently assessed through rigorous and transparent processes. We also caution that these domains cannot be traded or balanced against each other – improved environmental outcomes do not justify unhealthy food environments, nor should environmental claims be used to promote unhealthy products.

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

Consumer interest in environmental sustainability is booming, both in a domestic context and overseas. As above, sustainability should be understood as the ambition to balance social, economic and environmental outcomes within the food system. However, where possible it is important to meaningfully reduce carbon emissions and encourage sustainable practices through regulatory approaches that improve both environmental outcomes and long-term health outcomes. Importantly, greater focus on environmental sustainability will future-proof our agricultural and food sectors in a rapidly changing world.

Many of the environmentally and socially ethical products are imported; seizing the opportunity to support and incorporate "sustainability" opens markets both in Australia and overseas. This depends, however, on a trusted and meaningful definition and independent and rigorous assessment. Greenwashing will not be accepted by domestic consumers or in many foreign markets.

In addition, advanced markets – for example, the European Union (EU) – are likely to restrict or place tariffs on imports that do not meaningfully demonstrate sustainability as an objective and as a practice. The George Institute recommends our food system take an adaptive approach to sustainability that can enable Australia and New Zealand to deliver on our international obligations to reduce carbon emissions and be a player in the global market. Earlier this year, the 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. In the Asia-Pacific, the CSIRO predicts opportunities driven by growth and consumer preferences for sustainable and natural foods could be worth $25 billion by 2030. 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.

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?

The George Institute believes it is crucial that First Nations and Maori communities are meaningfully engaged regarding policies that will impact their lives. The George Institute strongly recommends that separate consultation on this topic be undertaken with community Elders, groups and representatives, with a process that respects knowledges and expertise. The George Institute strongly suggests that:

- any engagement be appropriately and sensitively developed, include leadership from within communities;
- focus on facilitating responses from a broad cross-section of communities – the language in this draft RIS is exclusive and alienating;
- any feedback provided by people and organisations through any engagement not be balanced against or overridden by any pre-existing priorities of this review, implicit or explicit;
- no one narrative within that engagement be prioritised and/or taken as representing the whole experience and perspective of First Nations and Maori peoples; and,
- any engagement not be limited to recognition of culture and expertise, or economic opportunities, but provide an opportunity to hear and address other aspects of the food regulatory system that impact upon First Nations and Maori people and communities.

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

The George Institute believes it is crucial that First Nations and Maori communities are meaningfully engaged regarding policies that will impact their lives. The George Institute

strongly recommends that separate consultation on this topic be undertaken with community Elders, groups and representatives, with a process that respects knowledges and expertise. The George Institute strongly suggests that:

- any engagement be appropriately and sensitively developed, include leadership from within communities;
- focus on facilitating responses from a broad cross-section of communities – the language in this draft RIS is exclusive and alienating;
- any feedback provided by people and organisations through any engagement not be balanced against or overridden by any pre-existing priorities of this review, implicit or explicit;
- no one narrative within that engagement be prioritised and/or taken as representing the whole experience and perspective of First Nations and Maori peoples; and,
- any engagement not be limited to recognition of culture and expertise, or economic opportunities, but provide an opportunity to hear and address other aspects of the food regulatory system that impact upon First Nations and Maori people and communities.

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

The George Institute considers that Component 2 represents a **negative** outcome for public health and consumers. In principle, some of the suggestions within this component may be appropriate, however others – particularly those that increase risks to public health through reduced regulatory oversight – are unacceptable. In combination, and as presented here, they result in considerably increased risk to individuals and to governments.

Any reduction in oversight, transparency and rigour in governance and risk assessment necessarily endangers public safety, health and confidence in the food system. The consequences of implementing this component are serious and The George Institute cannot support any move that increases the risk of death, disease and disability to the population. These proposals, if enacted, will undermine the “strong preventative focus” of our food regulatory system, the very aspect that is acknowledged as underpinning its effectiveness and economic success to date.

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?

The George Institute is strongly opposed to this proposal and agrees with the Obesity Policy Coalition that this Component already allows for the FSANZ Board to delegate to the CEO and for Ministers to delegate to departmental officials. Adding a third pillar, whereby Ministers can delegate to the FSANZ Board, further centralises decision making. This gives too much power to the FSANZ CEO and the Board, removing oversight and authority from jurisdictions and undermining the joint nature of the food regulatory system. This is not aligned with the Aspirations for the Food Regulatory System, which state that Ministers will lead the meeting of those aims.

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

None. The George Institute considers that codes of practice and attempts at diminished oversight, self-regulation or co-regulation, fail consumers and risk public safety, health and confidence in the food system – they must not replace food standards. The George Institute recommends no issues be relegated to codes of practice or guidelines. Rather, jurisdictions and agencies must be resourced, empowered and encouraged to effectively, efficiently and proactively address and resolve regulatory issues.

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?

The George Institute does not have such data. However, we wish to note that rigour, transparency and substantiation in estimating any claims of costs will be required to satisfy stakeholders and the public, and to meet the requirements specified in the Australian Government Guide to Regulatory Impact Analysis. Current examples in the draft RIS do not meet these criteria.

The George Institute agrees with the Obesity Policy Coalition in suggesting that assessments of the cost of administrative burden must be analysed to isolate the cost of the risk assessment process that applies above the cost of a manufacturer's expected internal due diligence processes. For example, if a manufacturer wants to use a new ingredient or additive in a food that requires a FSANZ risk assessment, it is reasonable to expect that, regardless of any FSANZ process, the manufacturer must satisfy itself that the ingredient or additive is safe before deciding to use it. Only the additional costs above this process should be considered as part of this RIS analysis of administrative burden.

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?

The George Institute does not have such data. However, we wish to note that rigour, transparency and substantiation in estimating any claims of savings will be required to satisfy stakeholders and the public, and to meet the requirements specified in the Australian Government Guide to Regulatory Impact Analysis. Current examples in the draft RIS do not meet these criteria.

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

The George Institute considers that the implementation of regulatory sandboxes would have a **negative** impact and we strongly oppose the introduction of this component. We reject the

idea that industry has a need to experiment with consumers' health and lives and insist that the food regulatory system remain proactive and prevention-focused.

There is insufficient information in the RIS to justify the appropriateness of sandboxes in a food regulatory context – and there are no comparable examples worldwide. Material drawn from context of Fintech in the United Kingdom is not comparable given the different risks to public health and safety. Regulatory sandboxes are entirely inappropriate in a food regulatory context and will compromise safeguards that protect the health of the community, as well as the reputations of industry and our domestic economy.

The "strong preventative focus" of the Act is a critical component of our food system. This helps protect all stakeholders. The draft RIS itself makes it clear that the removal of rigorous assessment by FSANZ prior to novel products entering the market means that safety is not guaranteed, although this distinct implication is avoided in the text.

In addition, the concept of regulatory sandboxes necessarily requires ongoing monitoring and guidance from regulators, differentiating a sandbox from other regulatory waivers and exemptions.[13] Clear guidance and rigorous assessment and decision making must also determine admission to a regulatory sandbox. These must be acknowledged as an additional 'cost' on FSANZ's resources.

The George Institute further rejects the need to make it easier for industry to develop new processes and ingredients to add to foods, at the potential cost of public health. It should be noted that existing processes and additives are already overwhelmingly geared towards increasing the supply of ultra-processed foods, which are harmful to human health and the environment.

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?

The George Institute does not support the use of regulatory sandboxes. Regulatory sandboxes are entirely inappropriate in a food regulatory context and will compromise safeguards that protect the health of the community, as well as the reputations of industry and our domestic economy.

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

Overall, The George Institute considers that this component will have a **negative** impact, given the demonstrated inadequacies in resourcing for FSANZ that already leave other integral functions neglected. We strongly support FSANZ focussing additional resources on reorienting to protect long-term public health. Any additional functions that may undermine this primary focus are not supported.

The George Institute also supports specific actions that will increase opportunities for FSANZ to undertake more timely, holistic and regular reviews of food standards, as outlined by the Obesity Policy Coalition:

> We support FSANZ having a greater strategic focus on reviewing and amending the Food Standards Code to protect long-term public health and prevent diet-related

disease. We support FSANZ being required to monitor, assess and review the operation of the Food Standards Code in practice, and its alignment with public health objectives.

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.

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

The George Institute does not support this expansion of FSANZ's role and responsibilities. FSANZ must focus on its key priority of developing food standards and must commit additional resources to reorient to protect long-term health. Additional food safety functions are unlikely to create a significant additional public health benefit for consumers, do not address long-term health at all and are likely to divert resources away from priority areas.

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

The George Institute considers that there are largely **neutral** outcomes from this component for public health; it could be positive were public health and academia also able to access information (for a reduced/waived fee) alongside food safety bodies and industry. A further discussion of fee-for-service arrangements is at question 26.

The George Institute also cautions against any additional activities that will draw resourcing away from critical functions and responsibilities that are already deprioritised by FSANZ.

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

Not-for-profit organisations such as public health and consumer groups, individual researchers, advocates and other organisations dedicated to health research and promotion typically do not have funding to pursue such services, nor are they likely to receive financial benefit from their use.

If a fee-for-service or cost recovery model is introduced, The George Institute recommends that such bodies have access to fee waivers or reductions for work that is in the public interest, is for public benefit and will be publicly reported. Such arrangements exist for other data services available from the National Heart Foundation of Australia and The George Institute, for example. Small food industry businesses that are genuinely independent of larger operators could benefit from reductions in fees, noting that the motive is still profit so some cost-recovery is appropriate.

The George Institute recommends that FSANZ also has regard to the source and role of funders of bodies seeking fee waivers or reductions. “Astroturfing” – the channelling of funds from private and other for-profit enterprises to ostensibly consumer or health-focussed but industry-aligned grassroots groups – should be identified and excluded.

In addition, The George Institute recommends FSANZ resources should not be redirected to prioritise fee-for-service activities, as has occurred with other government agencies. This will reduce the capacity of FSANZ to achieve its primary objectives and threaten its independence.

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

The George Institute regards Option 2, Component 6, as currently framed, as providing a **negative** outcome. We have considerable concerns that a smaller, “skills-based” Board will result in less representation of public health and consumer interests, which is critical to ensure the Act and FSANZ achieve their objectives. This is particularly the case when considered alongside suggestions that substantially reduce the objectivity and transparency of Board appointments. The George Institute does not support reducing appointments from external organisations, removing the need to seek nominations from external organisations or removing sign-off from all Food Ministers. Other options, including virtual board meetings, will reduce costs of supporting the Board without removing the necessary oversight provided.

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?

The George Institute considers that when taken as a whole, Option 2 significantly increases risks to all stakeholders, as partially acknowledged in the draft RIS, by undermining the public health objectives of the Act and reducing transparency, rigor and objectivity in processes.

This includes risks to:

- Individuals and communities – increased risk of death, disease and disability, associated with increased health care costs and reduced capacity to work.
- Industry – increased risk of reputational damage and associated loss of revenue.
- Governments – increased risk of high health care costs, reduced productivity and reputational damage due to failure to protect public health and safety.

The George Institute believes the overarching risk associated with Option 2 is that it will not create a food regulatory system that is fit for purpose in achieving its primary objectives of protecting public health, specifically long-term health and preventable diet-related disease. This option prioritises profit above public health and in effect transfers costs from private industry to the community and to governments.

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 George Institute recommends that the above risks to the public, industry and governments (death, disability and disease; health care; decreased productivity; reputational damage) be acknowledged as costs that will be incurred in the process of yielding some private benefit to industry. This essentially shifts burden from industry to the community and to government.

The George Institute supports the Obesity Policy Coalition on their position on this matter. The RIS must assess in detail both the qualitative and quantitative costs (and benefits where they exist) in relation to long-term public health, including preventable diet-related disease. These costs are borne by individual consumers and by governments.

This analysis must include:

- The health and economic costs borne by consumers and governments due to delays in progressing food regulatory measures to promote public health. These can be assessed by reference to costs saved and health risks reduced by existing public health measures that were delayed under the current system, together with an assessment of how those delays may be changed under this option. As there is no mechanism to address the prioritisation of industry applications over proposals with public health benefit, this is unlikely to improve.
- The health and economic costs borne by consumers and governments due to food regulatory measures that do not effectively address long-term public health, including preventable diet-related disease. These costs can be seen in measures that are either not progressed at all or that do not represent best-practice public health measures due to the prioritisation of industry interests ahead of public health. This analysis should assess whether Option 2 makes public health measures more or less likely to be implemented in accordance with evidence on best practice. Due to the elevation of trade and the regulatory impact on business, in our view public health reforms will be more difficult to progress and approve under Option 2.
- The administrative cost to public health and consumer organisations of participating in lengthy, delayed processes to review and amend food standards.
- The health and economic costs borne by consumers and governments due to new approval processes with less oversight and pre-market assessment. Analyses assessing these costs must include short- and long-term health impacts, and consider the impact of Option 2 on the number of unhealthy foods that are sold and promoted to consumers.

The George Institute does not agree with the statement in the RIS that there is a clear net benefit to Component 1, and that the proposed changes would not impose any costs on stakeholders. The cost/benefit assessment for Component 1 is not comprehensive. It does not consider any costs associated with the elevation of trade

and industry interests and the impact this will have on public health. The George Institute recommends the RIS must assess these costs, both to consumers' health and the economic cost for government.

The RIS states that it will analyse the impact of policy options on public health, but then fails to do this. The George Institute recommends the RIS be amended to include detailed assessment of the costs to public health and to consumers and governments of elevating trade and industry interests. This analysis must include health and economic costs that will be linked to delays in approving public health measures, and measures that are weakened or rejected because of the greater importance of trade and regulatory impact on business under Option 2, Component 1, as compared to Option 1 (status quo).

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.

The George Institute supports the Obesity Policy Coalition in their position on this matter:

> 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.
>
> There is considerable data and analysis publicly available and held by government to understand the impact of poor diet, overweight and obesity and diet-related preventable disease, from both qualitative and quantitative perspectives. This data should be used as the foundation for a detailed assessment in the RIS of the impact of the proposed reforms on public health outcomes.
>
> We know how many Australians have a poor diet, are above a healthy weight and have diet-related preventable diseases such as Type 2 diabetes, heart disease and some cancers. We also know the contribution that poor diet and overweight and obesity make to the burden of disease in Australia. We also have data on the economic costs of obesity, including costs borne by individual Australians and by governments.
>
> Using this existing data as a foundation, the RIS must assess the impact on health outcomes and economic burden from estimated changes in the number of Australians (and New Zealanders) who have a poor diet, overweight and obesity and preventable diet-related disease.
>
> Of course, it will not be possible to quantify exactly how these impacts will manifest if these proposed reforms are implemented. The RIS can, however, quantify the economic and health costs of a slight change in these levels. For example, a 2015 report estimated the annual cost of obesity in Australia as $8.6 billion in direct and indirect costs.[1] If these costs were to increase proportionately due to even a 0.25% increase in the number of people with obesity, this would represent an additional cost of $21 million per year.

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?

The George Institute supports the Obesity Policy Coalition in their position on this matter:

> The current system prioritises paid industry applications that benefit one or a small number of food manufacturers, ahead of proposals that have widespread public health impact. This results in the prioritisation of industry interests and delayed action on public health measures, resulting in increased industry profit and higher health and economic costs to consumers and governments. Overall, this results in a system that is not fit for purpose in achieving its primary objective, protecting public health.
>
> If additional cost-recovery mechanisms are introduced, we are concerned that this could worsen this unequal treatment of public health proposals and industry applications. Creating new 'services' that the food industry can pay for, such as interpretive advice, risks compromising FSANZ's independence and central role, further positioning FSANZ as a provider of services to the food industry. We do, however, acknowledge that a lack of resources will limit FSANZ's ability to deliver its core functions, and understand that a holistic review of the way FSANZ is funded may be required.
>
> We strongly recommend that industry applications and public health proposals are separately resourced, so changes in industry paid applications do not affect proposals. We also recommend the introduction of a specific public health pathway to request changes to the food standards code, that must be addressed and responded in a timely way, and acknowledges resource constraints of public health organisations.

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?

The George Institute supports the Obesity Policy Coalition in their position on this matter:

> This question must also consider the impact on public health. In particular, the analysis of this question must assess how the current cost-recovery models affect public health, and the likely impact of expanding those cost-recovery measures. This must include assessment of how paid industry applications are currently prioritised ahead of proposals to benefit public health, and the delays that are attributable to this system. The RIS assessment must also consider how FSANZ would be able to undertake the additional responsibilities that it would take on under the proposed reforms and assess how this expansion may affect the development of public health measures.

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

The George Institute's experience aligns with that of the Obesity Policy Coalition and other public health and consumer representatives.

The George Institute does not engage with the system by requesting applications to change food standards. This is because the current system is designed to promote industry interests and there is no specific pathway designed for public health organisations to request review

and amendment of food standards, taking into account resource constraints of public health organisations.

The George Institute engages with proposals to change food standards, a process that is subject to extensive delay and lengthy, detailed consultation processes that benefit large food companies with significant resources to engage and advocate for changes in their interests. The RIS must be revised to address the current prioritisation of paid industry applications over proposals that create change across the system, often with public health benefits.

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

The George Institute notes that there is a clear prioritisation of industry applications over public health proposals by FSANZ. This means that where FSANZ does consider a proposal or application that is likely to have a public health benefit, there is often a significant delay. The long time period and the many steps that are often involved before finalisation mean that the process of change is very resource intensive for already under-resourced public health organisations and creates an advantage for large food corporations that have significant resources to use to influence the process to their commercial benefit. The result is that regulation for Australians often lags behind evidence on and best practice for long-term health outcomes.

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 specific review processes for public health and consumer representatives 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.

Other significant constraints for people and organisations aiming to ensure that public health and consumer interests are prioritised include:

- Inadequate resourcing of FSANZ and jurisdictional agencies to monitor and enforce standards, proactively and comprehensively assess risks and work towards protecting public health and consumers.
- The standard of evidence offered by industry stakeholders and accepted by governments/regulators, as discussed elsewhere in this submission – there is insufficient transparency, rigour and consideration of conflict of interests when assessing industry claims of cost and benefit. It must also be noted that the benefits are often private (i.e. for industry) while the costs are public (i.e. incurred by individuals and governments).

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?

The George Institute wishes to clearly state that none of the pathways proposed would benefit public health and consumers. The RIS should be revised to include a public health pathway to enable public health organisations to request changes to regulation that will protect consumers.

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

The George Institute considers this represents a **negative** outcome. If equivalent or improved consumer protection can be assured, it may prove positive. However, the current state-based system is functioning effectively and the move to centralise functions has not been adequately justified. In addition, there are no assurances that FSANZ will be adequately resourced to undertake such a role and without redirecting from other critical functions that it alone can or should provide.

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

The George Institute does not possess this data, but cautions that any attempt to offset the costs of food incidents and recalls to industry are inappropriate. This will particularly be the case should oversight be lessened and incidents/recalls and other threats to health and safety inevitably increase. The community already bears the burden of disease, disability, death and associated costs and must not compensate industry for causing such.

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

The George Institute considers that this Component represents a **negative** outcome. The bundling of several different mechanisms under one Component is unfortunate as several are worthy of further consideration for their utility to industry and public health objectives, however others are unacceptable.

The George Institute agrees with the Obesity Policy Coalition's positions, as expanded upon below:

Statement of intent alongside food standards:

The George Institute supports FSANZ providing statements of intent alongside food standards setting out the intention of the standard. This would ensure there was more clarity around standards, particularly for enforcement purposes.

FSANZ to update and maintain industry guidelines:

Whilst The George Institute supports independent industry guidelines developed by FSANZ, we do not support this process being led by industry itself. We strongly recommend that industry does not have a role in developing the guidance provided by FSANZ.

Access to binding standards, clarification of standards or specific guidance on interpretative issues must be equal for all stakeholders – consumers, public health stakeholders and industry – and not just a right for industry. No one stakeholder should be prioritised over others by FSANZ when providing advice or support.

FSANZ to assist businesses to prepare dossier to substantiate general health claims:

The George Institute does not support the current system of self-substantiation but agrees that guidance is necessary to ensure organisations comply with regulations for general level health claims. We do not think that changes to the Act are necessary to enable this, or that FSANZ is best placed to undertake this work. FSANZ is under resourced to deliver its current remit and changes should instead be made to better resource and equip States and Territories to undertake a support role in assisting businesses to prepare dossiers to substantiate general level health claims. It is important that this role is performed before products are on the market, so that unsubstantiated claims of food-health relationships are not made before FSANZ is able to assess them. Companies could still sell the product without the claims whilst claims are being processed.

Ministers to determine whether a product is a food or a medicine:

The George Institute does not support changes to give the Minister for Health powers under the FSANZ Act and the Therapeutic Goods Act to determine if a product is a food or a medicine. Whilst the alignment of definitions between the Acts would streamline systems and create consistency for industry and consumers, the power to make this determination should not sit with a single minister as this undermines the independence and transparency of decision making.

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

The George Institute considers that this would have a **negative** outcome. We do not support FSANZ having an enforcement role or being either the bi-national or Australia-only regulator. The conflict of interest in this role would be too great, particularly given the vast number of additional powers and functions FSANZ is intended to have under this RIS.

Those additional powers and functions proposed by the RIS that enable FSANZ to set guidelines for interpretation and to make binding interpretative statements will enable the States and Territories to better enforce the provisions in a more cohesive and consistent manner. Aside from this, key areas of concern can be addressed in the model law provisions of the Food Regulatory Agreement.

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

The draft RIS is unclear as to what legislative changes are intended to implement this Component 4 and as such this is a **negative** outcome. However, The George Institute does not support any changes to the objectives in S3 or S18, or to the items for which FSANZ must have regard in S18, to enable FSANZ to extend Australia and New Zealand's influence on the international stage.

45. Are there other costs and benefits (qualitative or quantitative) that should be measured in relation to Option 3?

The George Institute supports the Obesity Policy Coalition's position on this matter, i.e. that the cost/benefit assessment for Option 3 is not comprehensive. It does not consider any costs associated with the reallocation of FSANZ resources into new areas beyond its current remit. This is likely to result in a further deprioritisation of proposals and achieving public health outcomes.

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

The George Institute does not support the current prioritisation of paid industry applications ahead of public health proposals and we do not support the introduction of further cost-recovery mechanisms, which will likely result in additional prioritisation of those paid activities at the expense of public health measures and of achieving the overall objectives of the food regulatory system. Cost recovery mechanisms also risk compromising FSANZ's independence and central role, further positioning FSANZ as a provider of services to the food industry. We do, however, acknowledge that a lack of resources will limit FSANZ's ability to deliver its core functions, and understand that a holistic review of the way FSANZ is funded may be required.

The George Institute further notes there is nothing in Option 3 to address the inequality between industry applications and public health proposals, nor to prioritise proposals which the RIS specifically states "often have system-wide impacts" (p.36) and "arguably has a wider reaching benefit for the broader Australian and New Zealand public" (p.37). We strongly recommend the introduction of a public health pathway to request reforms to the food regulatory system.

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

The George Institute wishes to make clear its position: the policy approaches presented in the draft RIS do not represent the full spectrum of policy approaches available and fail to consider any approach that will enable FSANZ to deliver on its objectives in relation to the protection of long-term public health and providing consumers with adequate information to make informed choices. The proposed policy approaches also fail to reflect concerns and recommendations put forward by public health and consumer organisations in earlier consultations. It is particularly hard to reconcile the proposals in the draft RIS with the statement that "food safety and quality no longer guarantee a competitive advantage for Australian and New Zealand food businesses" – these proposals effectively undermine those processes that ensure safety and quality, as well as long-term public health yet further, and will not address the identified problem.

The policy approaches in Options 2 and 3 enable industry profits to be further prioritised over public health. As such, the status quo, whilst itself inadequate, would be better for the health of Australians. Policy approaches should result in a revised food regulatory system that

effectively protects long-term public health into the future and enables consumers to make informed choices.

Additional approaches must be developed to address the Policy Problem that this draft RIS does not consider: that in its current form, the Act, and the proposed reforms assessed in the RIS, do not enable the food regulatory system to meet its goals of protecting public health (particularly long-term health and preventable diet-related disease), and providing adequate information to enable consumers to make informed choices.

We strongly support reform to improve the food regulatory system, but this must be done in a way that better protects long-term public health. The FSANZ Act review must be refocused to put public health first. This must include an independent review to fully assess the impact on long-term public health of all proposed options, including the health and economic costs and benefits to consumers and governments. The draft RIS must be amended to incorporate the policy problem above, the findings of this independent review and to identify and discuss additional reforms to address long-term public health.

The George Institute recommends the following policy approaches be comprehensively investigated:

1. Clearly defining public health to include short and long-term health, including the prevention of diet related disease, ensuring these two elements are separated and are equally resourced and prioritised.
2. Developing a clear, practical and timely pathway for public health stakeholders to ask FSANZ to review and amend the Food Standards Code to meet a public health objective.
3. Resourcing FSANZ to set strategic priorities that aim to promote healthy food choices, improve diets and prevent diet-related disease. This must include the requirement to regularly review the operation of the Food Standards Code in practice, and its alignment with public health objectives, specifically long-term health.
4. Setting statutory maximum timeframes for proposals that are aligned with timeframes for industry applications. This must ensure that proposals receive appropriate resourcing and are not delayed due to prioritisation of industry-focused work.
5. Removing inconsistencies in interpretation and enforcement between jurisdictions. This could be done without amending the FSANZ Act, including by amending the Food Regulatory Agreement and the model law.
6. Reviewing the health claims system as a whole, to ensure it has the best outcomes for long-term public health and for providing consumers with adequate information to make informed choices, instead of being a tool for industry to promote their, often unhealthy, products.

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

The George Institute considers that none of these components, on the whole, are adequate; thus none are a priority. Those that contain potentially positive elements are not a priority compared to other approaches not canvassed here but previously raised by public health and consumer representatives (as per Q47).

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?

The George Institute regard none of the options presented in this draft RIS as aligning with important guiding aspects of the draft Aspirations – the proposals, as presented:

- Do not in any meaningful way address the "range of challenges… relating to… poor nutrition and obesity continuing to impact on public health".
- Actively undermine efforts to "support public health objectives by promoting healthy food choices, maintaining and enhancing the nutritional qualities of food and responding to specific public health issues" and ensure that "the overriding priority will always be protecting public health and safety".

Rather, the options in the draft RIS fail to provide protection from diet-related disease and will further enable and entrench the prioritisation of industry profit over the health and wellbeing of the community. The mechanisms proposed in the draft RIS make clear that industry will continue to be supported to the detriment of the high-level objectives of the food regulatory system (as outlined in the draft Aspirations, previous Ministerial policy directions and current and proposed legislation) to protect the community from products that contribute to disease, disability and death. The acceptance of unsubstantiated industry claims of "costs" and the inappropriate use of such claims (as per p. 8 of the draft RIS), alongside the denial of the very real and proven costs to the community and government of continued inaction on diet-related disease, further belie the statement in the draft Aspirations that changes to the regulatory system will be "informed by evidence".

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