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Policy Guidance for Menu Labelling in Australia and New Zealand

About this submission

The George Institute for Global Health is pleased to contribute to the public consultation of Policy Guidance for Menu Labelling in Australia and New Zealand. The George Institute has answered questions in the consultation related to our areas of research expertise, and has also drawn upon the expertise of other public health stakeholders to provide feedback.

More broadly, The George Institute has previously suggested and continues to recommend the following reforms in menu labelling:

- Extend menu labelling to vending machines.
- Close known loopholes in legibility requirements in some jurisdictions.
- Ensure legislation is sufficiently flexible to accommodate new opportunities created by digital menus, self-service kiosks and online ordering systems, including those operated by third party delivery agents.
- Extend labelling requirements to incorporate interpretive elements such as the Health Star Rating.
- Invest in robust monitoring and evaluation, examining outcomes on both consumer behaviour and food business reformulation.
- Improve synergies between menu labelling activities, the Healthy Food Partnership, and the Health Star Rating System to maximise their combined public health impact.

We welcome the opportunity to further engage with the Department of Health on this important issue.

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 submission was written.

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

Q4. Do these differences between states and territories create problems for Australian businesses?

Yes.

The George Institute endorses the view of Cancer Council NSW. These differences create an uneven playing field for businesses that are multi-state/territory compared with those operating in a single state.

Q5. Do these differences impact Australian consumers?

Yes.

The George Institute endorses the view of Cancer Council NSW. The difference in menu labelling systems in Australian states and territories mean consumers in some jurisdictions have inadequate access to nutritional information relative to those in other jurisdictions. This not only creates confusion for consumers as they travel around Australia, but evidence shows that the impact of fast food menu labelling strengthens over time,[1] leaving consumers in the jurisdictions with no menu labelling scheme falling behind in terms of health benefits.

Further, due to the national nature of many chains, consumers in states and territories without mandated menu labelling are exposed to different schemes between the chains, as some chains have adopted one state or territories menu labelling laws, while others have adopted different jurisdictions. This has meant that consumers in these states and territories are exposed to a patchwork of different schemes and this may be confusing when choosing between chains. This is particularly problematic when considering the differences in the way combination meals containing pre-packaged items are treated in the different states and territories. This all leads to further confusion for consumers when choosing foods.

Another area of inconsistency between the states and territories is that in some jurisdictions, alcohol products that are standard menu items are included in menu labelling whereas others they are not. Alcohol products can contain large amounts of kilojoules,[2] and therefore if they are standard menu items in a chain, they should be included in any national scheme. However, by excluding these products, as is done in Victoria, consumers are uninformed of the energy content of these products and therefore not able to use this information when making purchase decisions.

Q7. Is it a problem for Australian consumers that energy information is not at the point-of-sale in all businesses selling standard food items?

Yes.

The George Institute endorses the view of Cancer Council NSW. The lack of energy information in some point-of-sale businesses selling standard food items means that in some settings (e.g. food courts), consumers may not be able to access enough information from various chains to allow them to compare between the chains when making food choices. It also means that in other venues selling ready to eat foods, such as supermarkets, convenience stores and cinemas, consumers may not have access to information to allow them to make informed decisions. This is particularly problematic in venues selling large portion sizes or multi-serve items (e.g. soft drinks and popcorn in cinemas).

Consistent and comprehensive uptake of labelling also helps with consumer awareness as the more places that consumers see this information, the more likely they are to recognise it and understand the information it provides. A comprehensive uptake also supports any education campaigns.

Q8. Are there other business types (not already listed in Appendix 3) that are selling standard food items in Australia or New Zealand?

Yes.

The George Institute endorses the view of Cancer Council NSW. There has been a trend towards mobile 'outlets' of bigger chains – for example, Muffin Break had a coffee and muffin cart at Sydney's Redfern train station. Other mobile outlets, such as food trucks and "pop-up" outlets may extend from these outlets in the future. This will be an important trend to monitor for the future, to ensure these mobile outlets are covered by the same regulations as static, bricks-and-mortar shops.

'Entertainment' venue chains such as indoor trampolining venues, indoor rock climbing or bowling alleys do not currently have enough locations to be covered under the various menu labelling schemes, but as they expand should be included in the regulations. This is particularly important as many of the food offerings at such venues are energy-dense, nutrient-poor and of large portion sizes. They often serve alcoholic beverages as well.

Emerging business types should be evaluated on a regular basis to ensure that if they are selling standard food items they are included in the regulations.

Q9. What, if any, other new ways of promoting, offering, and selling standard food items have emerged since 2011, or are likely to emerge in the future and are not covered in this document?

The George Institute endorses the view of Cancer Council NSW. In addition to the types of businesses mentioned in Question 8 above, we are particularly concerned about the emerging trend of online delivery services. Demand for these services grew by over 70% in the five years to 2019.[3] These food delivery platforms are particularly important as Australian research has shown that the menu items available on them are overwhelmingly energy-dense and nutrient poor.[4, 5] Further, foods considered discretionary (contributing little nutritional value but higher levels of energy and nutrients of public health concern[6]) are the most popular foods on these platforms, as well as the most heavily marketed, promoting their selection.[5] This is at odds with the public health objectives of menu labelling. Use of these technologies is more prevalent in specific groups within the population, and some can be considered vulnerable groups, including young people, culturally and linguistically diverse and people with higher Body Mass Indexes.[7, 8] In September 2020, research by VicHealth suggested that people living in low income suburbs of Melbourne using delivery apps saw more unhealthy promotions on these apps than those living in high income suburbs, providing further evidence that online delivery use could increase health inequities.

Given their likely continued increasing use, it is important that menu labelling regulations cover these services. It will also be important to monitor the health impacts of online delivery services, and take additional action if necessary taken to protect and promote public health.

Q10. Is it a problem for consumers when energy information is not available for all menu items and/or on all ordering platforms and menu infrastructure?

Yes.

The George Institute endorses the view of Cancer Council NSW. Without access to all available information, it is impossible for consumers to make fully informed choices. Foods and beverages eaten out are often higher in energy than people estimate,[9] and people underestimate higher-energy fast foods to a greater extent than lower-energy alternatives.[10] Therefore, consumers may underestimate the impact foods eaten out have on their daily intakes if they cannot access the information at the point-of-sale. Given large portion sizes and poor nutrient compositions of many chain menu items,[11, 12] consumers need this information.

Q11. Has the increased use of different menu infrastructure and online platforms changed the cost of implementing menu labelling in Australia?

Do not know.

The George Institute strongly suggest that the cost of such infrastructure should not come at the expense of public health objectives, and therefore it is critical to ensure that energy information is presented at all points of sale, whether they are digital or physical. Kilojoules could be added to digital/online menus for little cost or incorporated into regular website updates.

Q12. Do you agree with the overall statement of the problem presented (section 2, 2.1-2.3)?

Yes.

The George Institute believe this section satisfactorily sets out the problems with the current approaches to menu labelling.

Q13. Do you agree that this problem requires government intervention?

Yes.

The George Institute endorses the view of Cancer Council NSW. There is a clear need for menu labelling in Australia, and the majority of states and territories have already adopted it. In addition, there has not been significant industry opposition to menu labelling.

However, despite the principles being in place since 2011, there is no consistency between the jurisdictions that have implemented menu labelling. Additionally, the lag in some states and territories in adopting menu labelling has resulted in inconsistency across Australia. This is particularly problematic in states and territories without menu labelling legislation, where consumers are exposed to a patchwork of different menu labelling as different chains have adopted different state's labelling laws.

Government regulation is needed to ensure that menu labelling is available in all states and territories. It will also mean that rules are consistent across the country, reducing burden of food businesses.

As stated in the consultation document, the presence of national Principles does not guarantee that states will implement them as intended. Therefore, updating the Principles is not enough. Similarly, allowing voluntary action by industry may see the number of chains dial back their participation in menu labelling and result in less information being available for consumers.

There are also some concerns about inconsistent presentation of energy labels between the states. For example, the Queensland legislation has requirements about contrast and background colour that should be included as a minimum, but reviewing the accessibility requirements for signage as set out in the National Construction Code[13] and including such provisions in a national scheme would ensure best-practice is implemented and usability is improved for all customers.

There is strong community support for menu labelling. The Shape of Australia Survey 2019 found that 76% of adults supported menu labelling. Other Australian research has consistently found public support for menu labelling is above 70%.[14, 15] Introduction of nationally consistent menu labelling is likely to be strongly supported by the Australian public.

Government intervention will create a more even playing field for food businesses, and ensure consumers' needs for information are being catered to.

Q14. Do you agree with the proposed objectives?

No.

While The George Institute does not object to the three proposed objectives, we do believe there should be a fourth objective added. That is, that public health is considered in all regulatory aspects of menu labelling.

Q15. Are the proposed options appropriate to address the stated problem and achieve the proposed objectives?

Yes.

The George Institute endorses the view of Cancer Council NSW, who believe option 3 is appropriate to address the stated problems. Anything less will not achieve the aims for either consumers or food businesses.
In addition, we strongly support the complementary strategies. As highlighted in the literature, menu labelling in the absence of other supportive strategies, such as education or the expansion of labelling to include nutrients (for example through the inclusion of an appropriately modified Health Star Rating for fast food products) will not be likely to result in meaningful changes to nutrient composition or healthier menus.[16]

Introducing supportive strategies will improve the effectiveness of menu labelling as well as facilitate other changes to make it easier for consumers to make healthy choices when eating out. We strongly recommend that any complementary education campaigns are thoroughly consumer-tested to ensure they are useful, well understood and empower consumers to use the energy information provided.

Q17a. Are the benefits and costs associated with the four proposed options and the complementary strategies accurate?

No.

The George Institute endorses the view of Cancer Council NSW. Although we are not able to comment on the costs and benefits to industry, we argue that large chains are constantly refreshing their menu boards regardless of menu labelling, so the costs associated with changes to menu labelling would likely be absorbed by regular updating costs anyway. Given that menu labelling is inherently a public health measure, it is reasonable to expect that economic and health costs and benefits, such as reduction of healthcare costs, are included. Although these are briefly discussed in the background material, they have not been stated when considering options themselves.

Aside from the benefits to consumers in having access to information to facilitate healthier choices when eating out and a level playing field for businesses, there are a range of wider-reaching benefits in the recent published literature that have not been included in the consultation document. In fact, in an analysis of the economic, social and health costs of overweight and obesity in the 52 OECD countries and the cost benefits of associated policy options, menu labelling interventions were evaluated as one of the two most effective interventions.[17]

Economic modelling in the US shows that menu labelling legislation was estimated to prevent 31,300 new cancer cases and 18,700 cancer deaths, resulting in an increase of 134,000 quality-adjusted life years (QALYs) over a lifetime.[18] An analysis conducted by the OECD also reported an avoidance of 1,900 new cancer cases each year in each country included in the modelling (of which Australia was included).[17] Similar figures were noted for other chronic diseases: prevention of 135,781 new cardiovascular disease cases 99,736 type 2 diabetes cases, and gaining 367,450 additional QALYs.[19] When considering the cost effectiveness (adjusted for implementation and healthcare costs), implementing menu labelling had a net $1.74 billion USD cost saving.[18] Another study estimated that menu labelling represented a lifetime cost saving of $10.42 billion USD on healthcare alone.[19] It is imperative that seeking to minimise any economic costs to businesses should not be prioritsed at the expense of protecting public health.

Q17b. Are there any other benefits, costs or unintended consequences which have not been identified above?

Yes.

The George Institute endorses the view of Cancer Council NSW. Aside from the benefits to consumers in having access to information to facilitate healthier choices when eating out and a level playing field for businesses, there are a range of wider-reaching benefits in the recent published literature that have not been included in the consultation document. In fact, in an analysis of the economic, social and health costs of overweight and obesity in the 52 OECD countries and the cost benefits of associated policy options, menu labelling interventions were evaluated as one of the two most effective interventions.[17]

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Q21. What is your preferred option and why?

The George Institute strongly support Option 3.

The George Institute endorses the view of Cancer Council NSW. Option 3 will ensure the best outcomes for consumers. This is because it is mandated, and will ensure that kilojoules are available for all standard items in all chains, regardless of location. Further, it will eliminate potentially confusing differences between states and territories.

From an industry perspective, including menu labelling in the Food Standards Code produces a level playing field for industry. Standardisation will also ensure that chains are not doubling up on costs to change menu boards for multiple states. Introducing menu labelling into the Food Standards Code means there are consistent and appropriate consequences for non-compliance.

Option 1 is inconsistent across Australia and does not provide a level playing field. For instance, in WA, a recommendation to come out of the 2017 Preventive Health Summit was to implement a menu labelling scheme, however progress has stalled while WA waits on the outcome of the National consultation.

Option 2, while we are supportive of updating the Principles, in effect it is no different to the status quo as jurisdictions can still choose to disregard them. This will have minimal impact on consumers' abilities to make informed choices when eating out, and places no responsibility on chains to comply, or provide information in a consistent manner.

Option 4 is strongly opposed as we do not believe that this will increase the information available to consumers. Further, it has been demonstrated that voluntary actions in this setting are not sufficient to be cost-effective, or to ensure accountability.[16]

Q22. If Option 4 is your preferred option, how do you see it being implemented and operationalised?

The George Institute endorses the view of Cancer Council NSW and are strongly opposed to voluntary implementation.

We have published extensively on the limitations of voluntary implementation of other food policies in Australia, including the Health Star Rating and the Healthy Food Partnership. While these initiatives have laudable objectives, their self-regulatory nature has to date limited their benefit to consumers and their consequent public health impact. We strongly suggest that menu labelling – which is already mandatory and legislated in most jurisdictions – continues to be implemented through government-led mandatory legislation.

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