

**Comments from the Victorian Departments of Health and Economic Development, Jobs, Transport and Resources.**

The Victorian Departments of Health and Economic Development, Jobs, Transport and Resources (the Departments) welcome the opportunity to respond to the issues raised in the Consultation paper on Recommendation 17 of *Labelling Logic: Review of Food Labelling Law and Policy* (2011) (Labelling Logic).

In this document the Departments have responded to the questions posed by Food Standards Australia New Zealand (FSANZ) regarding the proposed removal of the mandatory requirement for *per serving* declaration in the nutrition information panel (NIP). Summarised below are the principal issues raised in the response:

- Changing per serving information from a mandatory to voluntary status will have a significant impact on a number of standards within the Code which currently require the provision of per serving nutrition information on food labels;
- The usefulness of the NIP as a public health tool is potentially reduced;
- A voluntary system would likely create further confusion for consumers through a lack of consistent presentation of per serving declarations found in NIPs of some foods but not others;
- Consumers will need greater numeracy skills and time to translate per 100g information into readily useable per serving information; and
- Consumers who have common medical conditions which rely on dietary management, such as diabetes and kidney disease, will not have readily available nutrition information.

In this document the Departments have recommended national approaches to standardise food serves in per serving declarations and suggest that these be aligned with the Australian Dietary Guidelines as a priority issue. Further, achieving consistency between market place and public health initiatives will assist in maximising the effectiveness of the NIP as a vehicle for information provision for consumers, as was originally intended at its introduction in 2002.

**Q1 How do you or your organisation use per serving information in the nutrition information panel on food labels?**

In the food regulation arena, the per serving information in the NIP on a product label is used in compliance assessments and for enforcement activities. The per serving information in the NIP for a nutrient is commonly used to compare against the per serving nutrient reference value information of the relevant standard in the Code, including Standards 1.2.7-Nutrition, Health and Related Claims, 1.2.8-Nutrition Information Requirements, 1.3.2 – Vitamins and minerals and 2.6.4-Formulated Caffeinated Beverages. This is because these standards currently mandate that all foods that require a NIP, and carry voluntary nutrition and related information, present the information on the relevant nutrient in the NIP on a per serving basis.

From a public health perspective the per serving declaration, like the NIP as a whole, is regarded as a significant tool in the implementation of public health initiatives, including overweight and obesity prevention initiatives. The per serving declaration in the NIP is used for straightforward determinations of nutrients for consumption, allowing comparison of the nutritional profiles of food products to inform purchasing decisions, and guide consumer consumption behaviours regarding the appropriate quantity of food to consume.

To be an effective public health tool the NIP needs to be accurate, current,

understandable and consistent with national and state-wide nutrition policies.

Findings of research conducted by FSANZ and those published in literature highlight the differing consumer usage patterns of the per serving and the per 100g declarations on a label. Consumers commonly use the per serving declaration rather than the per 100g declaration when selecting the healthier choice between products within the same category. However, for across the board product comparisons, where the serve size differs, the per 100g declaration was preferentially used<sup>1,2</sup>. Therefore, as a public health tool, the research suggests that per serving declarations provide a distinct function for consumers compared with per 100g declarations in NIPs.

Appropriate serve sizes and portion control of foods have been identified as a key component of the Australian Dietary Guidelines for achieving public health and obesity prevention goals. However, currently there is variability in serve sizes commonly used in per serving declarations<sup>3</sup> and they are inconsistent with recommended consumption patterns such as the Australian Dietary Guidelines. These inconsistencies can create consumer confusion regarding appropriate serving sizes when implementing such dietary advice<sup>4</sup>. There is therefore value in standardising serve sizes nationally for use in the market place and ensuring that they are consistent with national health policies such as the Australian Dietary Guidelines.

Currently, national and Victorian state canteen and other healthy food procurement policies and implementation guidelines contain nutrient criteria that require assessments of foods on both a per 100g and per serving basis. These policies and guidelines include both formats to enable a more comprehensive assessment of the suitability of foods for children. They facilitate a consideration of the nutrient quality and quantity of the food offered to children. Therefore, retaining both per serving and per 100g declarations in NIPs will achieve alignment with these national and state health policies.

**Q2 Are there any particular food categories or types of food packages (e.g. single serve packages) for which per serving information is particularly useful? If so, what are they? Explain why the information is useful.**

It would be advantageous for all foods requiring a NIP to provide per serving declarations in addition to per 100g declarations in NIP.

From a pragmatic perspective there is merit in requiring per serving declarations for foods in single serve packages designed for individual consumption, including ready to eat meals.

However, equally valuable from a public health viewpoint, is mandating per serving declarations for multi-serve/ share pack foods designed for consumption by multiple persons and/or multiple episodes of consumption. For example, ice-cream tubs, chips, biscuits, soft drinks, confectionery, and breakfast cereals. In these instances, the per serving declaration in the NIP is useful in providing information to consumers in a straightforward presentation that guides their purchasing decisions and consumption behaviours. It may also encourage and promote increased use of NIPs for product comparisons. This is especially important for the category of snack foods such as chips

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<sup>1</sup> Baines, J. and Lata, S., **Consumer understanding and use of Nutrition Information Panels**, Asia Pacific Journal of Clinical Nutrition 13: S160-S160 (2004).

<sup>2</sup> Usmanova, N. and Thor, E, **Communicating Nutritional Information to the Global Consumer: Adapting to Shifting Consumer Attitudes Toward Nutrition**, International Food & Agribusiness Management Review 6(2): 1-18.(2003).

<sup>3</sup> Vartanian, L. R. and Sokol, N., **Serving-size information on nutrition labels in Australia**, Australian And New Zealand Journal Of Public Health 36(5): 493-494.(2012).

<sup>4</sup> Faulkner, G. P., Pourshahidi, L. K., et al., **Serving size guidance for consumers: is it effective?**, The Proceedings of the Nutrition Society, 71(4): 610-621.(2012).

and biscuits which are commonly available in multi-share packages and contribute to excessive energy consumption<sup>5,6</sup>; 36% of total energy intake of Australians is from energy-dense, nutrient-poor sources of 'extra' foods based on the 1995 Australian National Nutrition Survey<sup>7</sup>.

**Q3 The Labelling Review recommendation suggests that per serving information be voluntary unless a daily intake claim is made.**

**Do you support this approach? That is, do you think declaration of per serving information in the nutrition information panel should be mandatory if a daily intake claim is made (e.g. %DI or %RDI)? Give reasons for your answer.**

It would be sensible to continue to require the mandatory provision of the per serving declaration in the NIP for all foods that require a NIP. However, if a proposal to remove mandatory per serving declaration is approved, the Departments support mandating per serving declarations for foods if a daily intake claim is made, i.e. percentage daily intake (%DI) or percentage recommended daily intake (%RDI).

In allowing a daily intake claim (e.g. %DI or %RDI), the standards require that the nutrition information in the NIP is provided in the context of the recommendations of the Australian Dietary Guidelines. Furthermore, providing these specific types of nutrition information in the context of a whole diet through the per serving declaration in the NIP provides a full disclosure of nutrition information. Such disclosures enable informed purchasing decisions and inform consumption patterns.

It is convenient for the consumer to have all the nutrition information assembled in one place on a label in the NIP, including the per serving information, even when daily intake claims are presented separately elsewhere on a food label. This is considered to be an important component in assisting consumers to make informed choices about products they purchase for consumption.

**Q4 As noted in Section 4, there is currently variation in the format of NIPs on food labels because of voluntary permissions for the use of %DI labelling and the option to include a third column for foods intended to be prepared or consumed with at least one other food. If per serving information in the NIP was voluntary this would result in more variability in the format of NIPs across the food supply. Do you think this would be a problem? Why/why not?**

A consistent presentation of nutrition information would be advantageous for consumer familiarity with the NIP, encouraging increased understanding and use. While the per serving declaration relating to serve size assists in guiding consumption practices, it also assists in placing the food within the context of a whole diet.

There is currently already a high degree of variability in the presentation of the NIP due to the rules for foods making daily intake claims and for foods intended to be prepared or consumed with at least one other food. The recommendation to permit the per serving declaration in the NIP on a voluntary basis would further exacerbate the already

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<sup>5</sup> Pelletier, A. L., Chang, W. W., et al, **Patients' understanding and use of snack food package nutrition labels**, The Journal of the American Board of Family Practice / American Board of Family Practice, 17(5): 319-323.(2004).

<sup>6</sup> Faulkner, G. P., Pourshahidi, L. K., et al., **Serving size guidance for consumers: is it effective?**, The Proceedings of the Nutrition Society, 71(4): 610-621.(2012).

<sup>7</sup> [http://www.nhmrc.gov.au/\\_files\\_nhmrc/publications/attachments/n55\\_australian\\_dietary\\_guidelines\\_0.pdf](http://www.nhmrc.gov.au/_files_nhmrc/publications/attachments/n55_australian_dietary_guidelines_0.pdf)

inconsistent NIP formats and contribute to consumer confusion.

**Q5 If per serving information in the nutrition information panel was voluntary, do you think the inclusion of per serving information in the nutrition information panel should be mandatory when a nutrition content claim about vitamins, minerals, protein, omega-3-fatty acids or dietary fibre is made? Give reasons for your answer.**

As previously raised in the response to Q3, there is merit in continuing to require the mandatory provision of the per serving declaration in the NIP. However, if a proposal to remove mandatory per serving declaration is approved, the Departments support mandating per serving declarations for foods regardless of the type of nutrition claim.

The per serving information in the nutrition information panel enables the consumer to more easily and conveniently determine and compare the amount of vitamins, minerals, protein, omega-3-fatty acids or dietary fibre provided by the food. This enables consumers to place the contribution of the relevant nutrient within the context of their own diet. It also places the nutrient in the context of other nutrients present in the food. For example, a food might be a good source of fibre, but per serving information also shows that to obtain that quantity of fibre the consumer will also be consuming a lot of salt, sugar or fat.

**Q6 If per serving information in the nutrition information panel was voluntary, do you think the inclusion of per serving information in the NIP should be mandatory in any other specific regulatory situations? Explain your answer**

It would be desirable to include the per serving information in the NIP on a mandatory basis for the recently introduced health star rating (HSR) front of pack labelling initiative. The HSR has a distinct intention and function from other nutrition information presentations on the front of pack of a label. It seeks to provide 'at a glance' information about a food product for consumers in a user friendly format. The majority of foods using the HSR system will be assessed on a 100g basis. It is desirable to additionally provide the per serving information in the NIP for the consumer to complement the front of pack information. This would be consistent with the existing requirements governing other voluntary nutrition information initiatives where NIP information is presented outside of the NIP format.

The only other standard remaining for discussion that currently mandates per serving declaration is Standard 2.6.4-Formulated Caffeinated Beverages. Manufacturers of caffeinated beverages are required to declare the amount of caffeine and other mandated substances on the label of the product on a per serve basis. From a pragmatic perspective it is sensible to continue this practice.

**Q7 What additional studies examine consumer use and understanding of per serving information in the nutrition information panel on food labels? Please provide a copy of studies where possible.**

A search on a range of databases, including health, psychology and business, revealed the following studies that may be useful in providing some additional information in this area of work:

1. Faulkner, G. P., Pourshahidi, L. K., et al., **Serving size guidance for consumers: is it effective?**, The Proceedings of the Nutrition Society, 71(4): 610-621.(2012).

2. Pelletier, A. L., Chang, W. W., et al., **Patients' understanding and use of snack food package nutrition labels**, The Journal of The American Board of Family Practice / American Board Of Family Practice, 17(5): 319-323. (2004).
3. Roberto, C. A. and Khandpur, N., **Improving the design of nutrition labels to promote healthier food choices and reasonable portion sizes**, International Journal of Obesity 38(S1): S25-S33. (2014).
4. Parker-Pope, T., **A 'Fat-Free' Product That's 100% Fat: How Food Labels Legally Mislead**, Wall Street Journal - Eastern Edition 242(10): D1. (2003).

**Q8 From your perspective, what are the advantages and disadvantages of per serving information in the nutrition information panel being voluntary? Please provide evidence where possible.**

The following advantages and disadvantages have been identified for per serving information in the NIP becoming a voluntary requirement. It is clear that the disadvantages outweigh the advantages.

Advantages

- There will be a reduced regulatory burden on industry
- It contributes to red tape reduction
- The abridged NIP may be more appealing to consumers since it will be reduced in size; one less column.

Disadvantages

- There will be a consequential need to amend several standards of the Code that currently mandate per serving declarations in the NIP: Standard 1.2.7-Nutrition, Health and Related Claims, 1.2.8-Nutrition Information Requirements, 1.3.2 – Vitamins and minerals and 2.6.4-Formulated Caffeinated Beverages.
- NIP presentations on food labels are already variable. The proposed change may further exacerbate the already variable NIP presentations on food labels resulting in increased consumer confusion.
- It will be more complicated for consumers to interpret, understand and use NIP information as greater numeracy skills and time would be required to translate per 100g information into readily useable per serving information<sup>8</sup>.
- It will reduce the public health value of the NIP as a tool to assist public health and obesity prevention goals and objectives through information relating to appropriate serving sizes and portion control<sup>9</sup>.
- It would result in reduced availability of nutrition information in a straightforward format for people with chronic medical conditions, such as diabetes and kidney disease, that require them to constantly quantify nutrients in the foods they eat<sup>10</sup>.

**Q9 Do you think the declaration of the amount of energy and nutrients per serving in the NIP should be voluntary? YES/NO/UNCERTAIN**

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<sup>8</sup> Rothman, R. L., Housam, R., et al., **Patient understanding of food labels: the role of literacy and numeracy**, American Journal Of Preventive Medicine 31(5): 391-398.(2006).

<sup>9</sup> Faulkner, G. P., Pourshahidi, L. K., et al., **Serving size guidance for consumers: is it effective?**, The Proceedings of the Nutrition Society, 71(4): 610-621.(2012).

<sup>10</sup> Pelletier, A. L., Chang, W. W., et al, **Patients' understanding and use of snack food package nutrition labels**, The Journal of the American Board of Family Practice / American Board of Family Practice, 17(5): 319-323.(2004)

**Please give reasons and evidence to support your view.  
If you are UNCERTAIN, please indicate what information you would need in order to form a view.**

The Departments are concerned that the introduction of voluntary permissions for the declaration of energy and nutrients on a per serving basis in the NIP potentially raises more issues than it seeks to address. The reasons for the retention of the existing mandatory provisions are outlined below.

The Code has been developed on the basis of the per serving nutrition information declaration as a preference to the per 100g declaration. Currently there are several standards in the Code that contain specifications that specify the per serving requirement in the nutrition information panel (NIP). These include Standards 1.2.7- Nutrition, Health and Related Claims, 1.2.8-Nutrition Information Requirements, 1.3.2 – Vitamins and minerals and 2.6.4-Formulated Caffeinated Beverages. Removing the requirement for the mandatory declaration of per serving in the NIP and awarding it a voluntary condition in the Code will necessitate immediate changes to the affected standards. Any such considerations to amend the Code will trigger the requirement for a cost benefit evaluation to be undertaken, amongst other resource intensive activities, to assess the impact of all options, including regulation.

Voluntary declaration is likely to remove relevant pre-calculated reference quantities and has the potential to confuse consumers, and reduce their interest in and use of NIP information. Consumers seeking energy and nutrient details for a serve of food will need to undertake a more challenging and time-consuming two-step task. This involves first estimating the appropriate serve size of a food and then calculating the energy and nutrient content for the serve size using the per 100g declaration. The labelling review panel, in its recommendation to display only nutrients per 100g, also acknowledged that this approach would require consumers to have greater numeracy skills.

At the time of development of Standard 1.2.8 the per serving nutrition information in the NIP was supported as the appropriate reference unit for declaring nutrition information by the majority of industry and public health groups. Consumer familiarity, consistency with Codex, and usefulness as a measure for placing nutrient intake in the context of the whole diet were the reasons cited for its adoption into the Code. These reasons have not lost their relevance and currency. The latter is of even greater significance today in terms of public health policy, and overweight and obesity prevention given around 60% of adults and 25% of children and adolescents are overweight and obese<sup>11</sup>.

Further, as a public health tool, the per serving declarations on labels can be useful for informing consumers about how much of a food to consume. This is currently limited to instances where appropriate serve sizes are used in the market place. Appropriate serve sizes or portion control of foods has been identified as key for obesity prevention. One of the aims of the standard servings in the DGs is to provide practical guidance for achieving energy balance to prevent and manage overweight and obesity. Alignment between reference quantities in per serving declarations and serving sizes recommended in the Australian Dietary Guidelines would maximise the effectiveness of the NIP as a public health tool.

Per serving declarations are also especially useful to consumers whose chronic disease management is diet dependent, such as kidney disease, diabetes, hypertension, and cardiovascular disease. For example, consumers with kidney disease require tight monitoring of their protein, sodium and potassium intakes and people with diabetes, particularly those requiring insulin, need to be able to easily quantify the amount of

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<sup>11</sup> [http://www.nhmrc.gov.au/\\_files\\_nhmrc/publications/attachments/n55\\_australian\\_dietary\\_guidelines\\_0.pdf](http://www.nhmrc.gov.au/_files_nhmrc/publications/attachments/n55_australian_dietary_guidelines_0.pdf)



carbohydrate they consume. Per serving declarations provide them with an easy and convenient means to manage their dietary intakes.

According to FSANZ's sponsored research on labelling issues, consumers often use NIPs (commonly located on back of labels) to verify nutrition product claims on the front of food labels<sup>12</sup>. Per serving declarations are a part of this information authentication process for consumers.

Whilst there is merit in retaining the per serving declarations on food labels, inaccurate or unreasonable serving sizes in NIPs renders them ineffective as a tool to inform consumers. It potentially misleads the consumer about the appropriate quantity or portion of the food to consume when it is inconsistent with other national nutrition policies such as the Australian Dietary Guidelines. It also potentially misleads the consumer about the true nutrition quality of the quantity of food consumed<sup>13</sup>. Currently in Australia, industry nominated serving sizes are used in the NIP. Other jurisdictions such as the United States and Canada use mandated standardised serves which guide and encourage consistent industry practice on food labels.

It is understood that the food industry and health sectors in Australia are undertaking work to standardise serving sizes as part of implementation of the front of pack labelling Health Star Rating system. To date, standardised serve sizes have been developed for two categories: confectionery and drinks. Further collaboration between industry and public health towards the achievement of national standardised serve sizes across all food categories would be encouraged and supported by the Departments.

In conclusion, the retention of current mandatory provisions in the Code regarding per serving declarations in the NIP is the Departments' preferred outcome, as we consider that the evidence supports the usefulness of the per serving declaration. Improvements to the NIP to increase its effectiveness, such as standardised serve sizes in accordance with the Australian Dietary Guidelines, would be far more beneficial than removing currently available valued nutrition information.

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<sup>13</sup> Parker-Pope, T, **A 'Fat-Free' Product That's 100% Fat: How Food Labels Legally Mislead**, Wall Street Journal - Eastern Edition 242(10): D1. (2003).