

Response to

**Consultation Paper – Labelling Review
Recommendation 17: Per serving
declarations in the nutrition information
panel**

Entity undertaking the consultation: FSANZ

Closing 27th February 2015

Prepared by Dairy Australia
on behalf of the Australian Dairy Industry

Contact

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The Australian Dairy Industry

Dairy Australia welcomes the chance to present this submission in response to **Consultation Paper – Labelling Review Recommendation 17: Per serving declarations in the nutrition information panel**

Dairy Australia is the dairy industry-owned service company, limited by guarantee, whose members are farmers and industry bodies, including the Australian Dairy Farmers, and the Australian Dairy Products Federation

The dairy industry advocates the following core principles within which all regulatory requirements must operate,

- Minimum but effective regulation that is risk (science or evidence) based;
- Outcomes focussed;
- Proportionate to risk;
- Nationally consistent and enforceable;
- Support innovation;
- Support and promote international and domestic trade; and
- Support competition.

Key points

- It is difficult to understand the basis for the recommendation as there does not seem to be any clear evidence the current Nutrition Information Panel (NIP) format presents a major issue or that the proposed change will deliver a major benefit.
- Of note, there does not seem to be any evidence as to what the effect will be if per serve NIP labelling were to become voluntary in Australia, both in terms of what level of removal from labels would be implemented or the effect of any resulting increased variability on consumer perceptions and choices.
- There is no clear evidence the NIP in any format is a significant driver of population consumer choices as to either amount or healthiness of foods consumed.
- Education of consumers regarding the 2013 Australian Dietary Guidelines (2013 ADG's) through other health promotion means is more in keeping with current science regarding food and health outcomes and consumer understanding of what constitutes a healthy food choice than any minor changes to food labelling requirements.
- This education is critical and must be the underpinning foundation of a coordinated consistent policy and regulatory framework that promotes 'core' foods as healthier choices. The development of the framework would include determining how best to utilise available communication vehicles/technologies associated with packaged foods including but not limited to the food label that can support such a framework.
- In the absence of a coordinated consistent framework to promote the 2013 ADG's and promoting 'core' foods as healthier choices to the Australian population, per serve NIP information plays an important role via the current permissions/requirements within the Food Standards Code (FSC) in communicating recommended serve amounts and nutrient richness, for 'core' dairy products.
- Per serve NIP declaration should remain mandatory in all situations where per serve declarations such as nutrient content or health claims are made in accordance with permissions within the FSC and for situations such as special purpose foods where serve size is integral to the use of the product.

- Any changes to food product labelling generally elicit consumer response, often concern that the product has been tampered with or changed in some way. Subsequently labelling changes are often extensively tested for consumer response prior to any changes being implemented. Consumer insights may (some manufacturer insights have already found this) indicate that many Australian consumers value both 100g/100ml and per serve nutrition information and would be concerned if the information were removed. To avoid consumer backlash manufacturers do not generally remove valued information from the label.
- The Australian dairy industry is currently working through the complexity of relevant factors to determine the viability of achieving greater consistency in on pack serve size declarations for dairy product categories.
- The removal of per serve NIP declarations by dairy manufacturers would only generally be considered when undertaking general label reviews due to reduced regulatory burden benefit in the situations of products for :
 - Food service;
 - Serve size is 100g/100ml
 - Small packages with very limited label space
 - Both Australian and export markets with NIP formats requiring mandatory 100g/100ml declarations only.

Overarching Comment

Blewett Review Recommendations

It is unclear from the Blewett Review Report as to what the issue is, public health or otherwise that has been identified that has prompted the recommendation. Though there is some discussion in the report alluding to using the label to emphasise positive attributes and minimise negative attributes this outcome can be potentially manipulated for either serve size or per 100g/100ml depending on the product.

Any of these ways of declaring nutrients can also mislead the consumer as to the contribution the food offers to a healthy diet in terms of giving the impression a food is unhealthy. For foods where the recommended serve size is greater or less than 100g/100ml it could be perceived the consumer is misled as to the energy and nutrients they are consuming as most people don't consume 100g/100ml portions of most foods. This is particularly the case when inherently nutrient rich energy dense food that provide under consumed essential nutrients are generally consumed in very small portions in comparison to other foods that are nutrient poor and energy dense but generally consumed in large portions.

There is also some discussion within the report regarding consumer confusion and lack of numeracy skills and the tension between declared serve sizes and what consumers actually consume. However this discussion does not identify how this influences actual food choices and subsequently health outcomes, nor does it recognise that numeracy skills would also be an issue for consumers that wish to understand the nutrients present in a recommended serve or per package (when the package constitutes a serve).

Of note, there does not seem to be any evidence as to what the effect will be if per serve NIP labelling were to become voluntary in Australia, both in terms of what level of removal from labels would be implemented or the effect of any resulting increased variability on consumer perceptions and choices.

When considering the recommendation, provided background and lack of research, there is no clear current issue identified or clear evidence that the recommendation will result in a beneficial outcome or if there may be a detrimental outcome.

Nutrition Information Labelling

As evidenced by the 2013 ADG's, it is important to consider that nutrition and health science is moving from a nutrients based approach to a foods based approach and it is becoming clearer that you cannot necessarily define the healthiness of a food based on a few select nutrients. Though this approach may have some applicability for nutrient poor energy dense foods or 'discretionary' food choices, there is very limited applicability in the case of nutrient rich 'core' foods such as 'core' dairy.

Nutrition information labelling has been mandatory and voluntary in various formats including both per and per 100g/100ml, serve size only and per 100g/100ml only, around the world for many years and has been researched from a variety of perspectives including consumer understanding, and influence on food choices. There is no clear body of evidence that either per 100g/100ml, or serve size that is normally consumed or recommended healthy portion serve sizes deliver benefit through encouraging either healthier food type, portion size choices or result in beneficial health outcomes to consumers.

What is clear, is, to address consumer confusion and lack of numeracy skills there must be a coordinated framework of initiatives that results in consistent implementation educating the consumer to understand the 2013 ADG's enabling identification of 'core' foods as healthier choices. It is also critical to simultaneously address how consumer's best manage the other major factors that drive unhealthy food choices and over consumption particularly of nutrient poor energy dense foods, for example value for money, peer and cultural norms, over size portions.

'Core' dairy foods are under consumed¹² and like other 2013 ADG's 'core' foods are nutrient rich and associated with reduced risk of a number of non- communicable diseases³⁴⁵. In the absence of a coordinated consistent framework to promote the 2013 ADG's, per serve NIP information plays an important role via the current permissions/requirements within the FSC to communicate recommended serve amounts and nutrient richness, for 'core' dairy products.

Per serve NIP declarations should remain mandatory in situations where per serve related declaration permissions in the FSC are accessed and for situations such as special purpose foods where serve size is integral to the use of the product.

Removal of the mandatory requirement to declare per serving information in the NIP unless % DI declarations are made, provides some regulatory burden benefit and would only be considered by manufacturers in the situations of products for:

- Food service;
- Serve size is 100g/100ml;
- Small packages with very limited label space; and
- Both Australian and export markets with NIP formats requiring mandatory 100g/100ml declarations only.

¹ Doidge JC & Segal L (2012) Most Australians do not meet recommendations for dairy consumption: findings from a new technique to analyses nutrition surveys. Australian and New Zealand Journal of Public Health. 36; 236-40

² Commonwealth Scientific Industrial Research Organisation (CSIRO) (2008) Preventative Health Nutrition Research Flagship and University of South Australia 2007 Australian National Children's Nutrition and physical Activity Survey: Main findings. Australian Government Department of Health and Aging: Canberra, ACT. Australia.

³ NHMRC (2013) Australian Dietary Guidelines Providing the scientific evidence for healthier Australian diets
https://www.nhmrc.gov.au/files/nhmrc/publications/attachments/n55_australian_dietary_guidelines_130530.pdf

⁴ NHMRC (2011) A review of the evidence to address targeted questions to inform the revision of the Australian Dietary Guidelines
http://www.nhmrc.gov.au/files/nhmrc/file/publications/n55d_australian_dietary_guidelines_evidence_report.pdf

⁵ NHMRC, (2011) A modelling system to inform the revision of the Australian Guide to Healthy Eating, Canberra, Australia
https://www.eatforhealth.gov.au/sites/default/files/files/public_consultation/n55a_dietary_guidelines_food_modelling_111216.pdf

Consultation Questions

Question for Submitters

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

As per serve nutrient information is connected to content and health claims permissions within the FSC, per serve declaration provides verification that criteria are met to enforcers, health professionals and consumers.

The ability to communicate the nutrient richness of 'core dairy foods' through content claims linked to serve size is particularly important when the mandatory NIP focuses on a limited number of nutrients, and whereas the nutrient contribution of 'core' dairy foods is a much broader range of nutrients and is considered on the basis of modelled serve sizes specific for each of the 'core' dairy foods in the 2013 ADG's.

Packages where the consumer would reasonably consider the entire package to be a single serve, the serve size information more likely to be of relevance than per 100g/100ml in communicating nutrients consumed per portion provided.

Dairy Australia uses 2013 ADG's modelling/recommended serves⁶⁷ to communicate the nutritional benefits of 'core' dairy foods. If similar serve sizes are communicated on packs this provides consistent message between 2013 ADG's and foods available to consumer. This type of consistent messaging also aids health professionals when providing dietary advice.

Manufacturers use serve size information to communicate the nutritional composition and benefits of the food in compliance with the FSANZ FSC appropriate for particular target populations and eating occasions for example:

- Communicate the nutrient richness of 'core' dairy foods and recommended serve sizes appropriate for 2013 ADG's recommendation, product use, and eating occasion
- smaller serve sizes for snacking or children;
- commonly consumed serve sizes;
- conveying that a large package is multiple servings and is not recommended to be consumed as one serve in one sitting, and;
- to advise the nutrients as consumed for foods that should be consumed in relatively very small serve sizes such as butter and cheese

⁶ NHMRC (2013) Australian Dietary Guidelines Providing the scientific evidence for healthier Australian diets
https://www.nhmrc.gov.au/files/nhmrc/publications/attachments/n55_australian_dietary_guidelines_130530.pdf

⁷ NHMRC, (2011) A modelling system to inform the revision of the Australian Guide to Healthy Eating, Canberra, Australia
https://www.eatforhealth.gov.au/sites/default/files/files/public_consultation/n55a_dietary_guidelines_food_modelling_111216.pdf

Question for Submitters

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.

Q4 As noted above, 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?

Other than for %DI, per serve NIP information plays an important role via the current permissions/requirements within the FSC to communicate recommended/appropriate serve/portion amounts for product target demographics and nutrient richness, for 'core' dairy products.

From a regulatory perspective, per serve NIP declarations should remain mandatory in situations where per serve related declaration permissions in the FSC are accessed and for situations such as special purpose foods where serve size is integral to the use of the product.

A level of consistency is important, however one size does not fit all foods or all consumer product information needs. Provided the information is provided clearly within consistent format guidelines, consumers that use this information can still use it if provided. E.g. milk is often consumed with other foods and being able to communicate the extra nutrition that milk provides on the food that is generally consumed with milk is important to be able to convey.

With current technology there are many other means of providing relevant nutrition and dietary information apart from the food label which may have greater benefit/impact than a minor change to the mandatory food labelling requirements that should be explored further as part of the development of a broader policy and regulatory framework and associated future regulatory reviews. Most importantly this should form part of the development of a clear consistent policy and regulatory framework to educate consumers about the 2013 ADG's and promoting 'core' foods as healthier choices.

Any changes to food product labelling generally elicit consumer response, often concern that the product has been tampered with or changed in some way. Subsequently labelling changes are often extensively tested for consumer response prior to any changes being implemented. Consumer insights may indicate (some manufacturers have already found this) that many Australian consumers value both 100g/100ml and per serve nutrition information and would be concerned if the information were removed. It is likely that most of the dairy industry would not remove per serve NIP declarations as many 'core' dairy products access per serve related claim permissions and support retaining per serve NIP declarations when making claims/declarations related to serve size.

Given the unknown outcome of removing information from the NIP, if businesses decide to voluntarily declare or not certain information on the label, the changes would be tested. Consumer insights would be used to inform what is most useful to their consumers for their product in the context of regulatory requirements and current technology.

Of note there does not currently seem to be any evidence as to what the effect will be if per serve NIP labelling were to become voluntary in Australia, both in terms of what level of removal from labels would be implemented or the effect of any resulting increased variability on consumer perceptions, and choices. This is a major concern for some manufacturers, in that there may be detrimental outcomes such as consumer backlash and increased confusion as a result of proceeding with this proposal, subsequently these manufacturers would not remove current serve size information.

To enable informed food choices, of greater benefit to the Australian population than a limited range of nutrients mandated in a specified format on a food label is a coordinated policy and regulatory framework of initiatives that consistently promotes 'core' foods as healthier choices and educating the consumer about the 2013 ADG's

Question for Submitters

- 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.
- 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.

Any situation where nutrient declarations on pack are made in accordance with per serve criteria in the FSC, it should be mandatory to declare per serve in the NIP. This would include the use of any consistent industry serve sizes to access flexibilities in the Health Star Rating Scheme.

Products for situations such as special purpose foods where serve size is integral to the use of the product should also be mandatory for per serve NIP declarations.

Questions for Submitters

- 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.

There is not a lot of good quality evidence available. There are some papers that consider consumer understanding and this seems to indicate that most formats can be used and understood by consumers⁸. What also needs to be considered is influencing public health outcomes where the issue really is overconsumption of food, not enough 'core' foods & too much discretionary food⁹, in this context changing this food labels and particularly serve size information the effect is likely very small.

⁸ Storcksdieck genannt Bonsmann S, Wills J M (2012) Nutrition Labeling to Prevent Obesity: Reviewing the Evidence from Europe. Current Obesity Reports: 1:134-140

⁹ ABS 2014: 4364.0.55.007 - Australian Health Survey: Nutrition First Results - Foods and Nutrients, 2011-12
<http://www.abs.gov.au/ausstats/abs@.nsf/PrimaryMainFeatures/4364.0.55.007?OpenDocument>

A greater effect on portion size consumed seems to be other factors such as portion provided, cultural, peer, socioeconomic, psychological, social, behavioural and value for money¹⁰¹¹.

Changing consumer food choices from high discretionary and low core to predominantly core with minimal discretionary is a more complex issue where the labelling of nutrients and serve size will not address, however providing serve sizes declarations consistent with the ADG's could be a supplementary tool to ADG promotion/education to communicate to the consumer what the recommended serve sizes are.

Question for Submitters

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.

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

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.

It is important to consider that nutrition and health science is moving from a nutrients based approach to a foods based approach and it is becoming clearer that you cannot necessarily define the healthiness of a food based on a few select nutrients. Though this approach may have some applicability for nutrient poor energy dense foods or 'discretionary' food choices, there is very limited applicability in the case of nutrient rich 'core' foods.

There is no clear evidence in the literature that either per 100g/100ml, serve size that is normally consumed or recommended healthy portion serve sizes deliver benefit through encouraging either healthier food type or portion size choices by the consumer.

The Australian dairy industry is currently working through the complexity of associated factors to determine viability of achieving greater consistency in on pack serve size declarations.

The removal of per serve NIP declarations by dairy manufacturers would only generally be considered when undertaking general label reviews due to reduced regulatory burden benefit in the situations of products for:

- Food service;
- Serve size is 100g/100ml
- Small packages with very limited label space
- Both Australian and export markets with NIP formats requiring mandatory 100g/100ml declarations only.

¹⁰ Faulkner G P et al (2012). Serving size guidance for consumers: is it effective? Nutrition Society Irish Section Post Graduate Symposium: Proceeding of the Nutrition Society; 71, 610-621

¹¹ Spence M et al, (2013). A qualitative study of psychological, social and behavioural barriers to appropriate food portion size control. International Journal of Behavioural Nutrition and Physical Activity: 10:92

In Conclusion

Removal of the mandatory requirement to declare per serving information in the NIP unless % DI declarations are made, though providing a minimal reduction in regulatory burden, does not seem to deliver any other significant benefit, however does raise issues with other FSC declaration requirements that are linked to serve size.

It is unclear as to whether this change will provide overall significant benefit to stakeholders or if there may be unintended detrimental effects – but this is not known.

What is clear is that to address consumer confusion and lack of numeracy skills there needs to be coordinated initiatives that educate the consumer to understand the 2013 Australian Dietary Guidelines and enable them to identify 'core' foods as healthier choices, whilst also addressing the other major factors that drive unhealthy food choices and over consumption particularly of nutrient poor energy dense foods, for example value for money, peer and cultural norms, over size portions.