



**FOOD STANDARDS**  
Australia New Zealand  
Te Mana Kounga Kai - Ahitereiria me Aotearoa

**8-06**

**13 December 2006**

## **DRAFT ASSESSMENT REPORT**

### **PROPOSAL P272**

# **LABELLING REQUIREMENTS FOR FOOD FOR CATERING PURPOSES & RETAIL SALE**

**DEADLINE FOR PUBLIC SUBMISSIONS: 6pm (Canberra time) 21 February 2007**

**SUBMISSIONS RECEIVED AFTER THIS DEADLINE**

**WILL NOT BE CONSIDERED**

*(See 'Invitation for Public Submissions' for details)*

For Information on matters relating to this Assessment Report or the assessment process generally, please refer to <http://www.foodstandards.gov.au/standardsdevelopment/>

## **Executive Summary**

The purpose of Proposal P272 is to provide clarity and greater certainty on the interpretation and application of labelling and other information requirements by amending Standard 1.2.1 – Application of labelling and other information requirements of the *Australia New Zealand Food Standards Code* (the Code) and other Standards with clauses connected to Standard 1.2.1.

During the transition the Code, the interpretation and application of the standard relating to exemptions from labelling and information requirements for foods exempt from labelling were identified by industry and enforcement officers as problematic. Proposal P272 has been prepared by FSANZ to address a number of issues arising from the implementation of labelling requirements for food for retail sale and food for catering purposes.

The approach taken by FSANZ in this Proposal is to provide clarity and greater certainty on existing labelling requirements, without mandating additional labelling requirements. Industry, governments, non-government organisations and consumers will benefit as a result of improved regulations regarding labelling of food.

The outcome of the changes to the Code proposed by FSANZ are predominantly technical in nature and generally require, little or no changes to current requirements resulting in little or no additional costs to those currently complying with the Code.

In preparing this Proposal, it is FSANZ's intention to address issues of interpretation and application, and not to re-open matters of broad regulatory policy considered during the development of Standard 1.2.1.

There are several issues identified in this Proposal that require consideration and possible amendments. These include:

- the labelling of **food for retail sale** including the definition of the term 'food for retail sale'; the application of exemptions; and the information requirements which apply when food for retail sale is exempt from labelling;
- the definition and labelling of **food for catering purposes**; the requirement for food for catering purposes to bear a label containing the information prescribed in the Code; the application of exemptions and application of information requirements;
- the labelling requirements for **meals provided by delivered meals organisations (DMOs)**; and
- the labelling requirements for **meals provided by hospitals and similar institutions**.

Two regulatory options have been identified:

1. maintain the *status quo* and retain the current requirements in clause 2 in Standard 1.2.1; or
2. amend the requirements in clause 2 of Standard 1.2.1 and other Standards with clauses connected to Standard 1.2.1, in relation to food for catering purposes and food for retail sale (including meals provided by delivered meal organisations and prisons, hospitals or similar institutions) to provide greater certainty for manufacturers and suppliers, by better reflecting the circumstances in which these foods are provided.

Following the Initial Assessment Report, FSANZ has collected data from stakeholders, and conducted a full risk assessment. The progress and direction of Proposal P272 has been guided by information received through the consultation process, where advice was sought from External Advisory Groups, including the already established Implementation and Enforcement Advisory Group, and through targeted and standard public consultation mechanisms.

On the basis of this work, FSANZ recommends Option 2 (amending Standard 1.2.1 to provide greater certainty and to better reflect the circumstances in which foods are provided).

### **Preferred Approach**

FSANZ has undertaken a Draft Assessment and has prepared draft variation to Standard 1.1.1, Standard 1.2.1, Standard 1.2.2, Standard 1.2.5 and Standard 1.2.11 in relation to food for catering purposes and food for retail sale, including meals provided by delivered meal organisations, prisons, hospitals and similar institutions.

The labelling requirements for food for retail sale, food for catering purposes and packaged meals provided by delivered meal organisations will be considered separately in Standard 1.2.1, eliminating much of the current confusion that has resulted with these food items being considered together in clause 2 of Standard 1.2.1. Specifically, the proposed amendments to the Code include:

- a new definition of food for retail sale, placing the responsibility of labelling on the manufacturer of the food as well as the retailer;
- clarification on current exemptions that apply to food for retail sale;
- clarification and the addition of relevant information requirements as they apply to food for retail sale, when the food is exempt from labelling;
- a new definition of package which provides clarity of the labelling requirements as they apply to vending machines, hampers and food sold in a plated form in a prison, hospital or similar setting;
- a new definition of food for catering purposes, providing clarity of the labelling requirements for industry and enforcement officers;

- flexibility in the means by which certain labelling information is provided to caterers and catering establishments. Where information is considered necessary for the protection of public health and safety this will continue to be provided on the label of the food;
- more relevant exemptions for food for catering purposes and information requirements where the food is exempt from labelling; and
- simplified and more relevant labelling requirements for packaged meals provided by delivered meal organisations.

### Reasons for Preferred Approach

- The approach will provide clarity and greater certainty on existing labelling requirements without mandating additional labelling requirements. Industry, governments, non-government organisations and consumers will benefit as a result of improved regulations regarding labelling of food.
- The impact analysis indicates that the outcome of the proposed changes to the Code are predominantly technical in nature, and generally require, little or no changes to current requirements, resulting in little or no additional costs to those currently complying with the Code. In the case where there may be some minor costs associated with the proposed amendments these are commensurate with the risk that is being managed.
- The proposed amendments to the Code will allow enforcement officers to enforce labelling requirements more effectively by providing legal clarity regarding the responsibilities of food manufacturers and retailers in complying with the Code.
- The preferred approach provides clarity for enforcement officers and various sectors of the food industry by removing ambiguities in the current labelling requirements in Standard 1.2.1. In addition, the uncertainties surrounding the labelling requirements of meals provided in hospital and similar institutions will be addressed.
- The proposed amendments provide more appropriate and less onerous labelling requirements for food industry, particularly where a strict interpretation of the current requirements is taken.

### Consultation

FSANZ received a total of 56 written submissions in response to the Initial Assessment Report for this Proposal during the public consultation period of 15 December 2004 to 23 February 2005.

Overall, the majority of submitters were in support of a review and amendment of labelling requirements in clause 2 in Standard 1.2.1 of the Code.

Issues identified from submissions received at Initial Assessment formed the basis of targeted consultation with key stakeholder groups.

Information from stakeholders has informed FSANZ's approach for determining the appropriate regulatory option for the labelling requirements for each aspect of this Proposal, the impact analysis and the recommendation for the implementation phase.

Prior to the Initial Assessment, FSANZ formed an Implementation and Enforcement Advisory Group (IEAG) to provide advice from an enforcement perspective on issues included in this Proposal. The IEAG had representation from the Health Departments in New South Wales, Western Australia, Queensland and from the New Zealand Food Safety Authority (NZFSA) and the Australian Quarantine and Inspection Service (AQIS). The IEAG met on three occasions in 2003.

During Draft assessment, FSANZ reformed the IEAG with representation from the NSW Food Authority, the NZFSA, and from the Health Departments in Queensland and Western Australia. The IEAG met twice in October 2006.

FSANZ also provided further advice on the regulatory options being considered in this Proposal to Australian and New Zealand stakeholders. In a series of meetings convened in October and November 2006, FSANZ consulted with Delivered Meal Organisations, with providers of meals in hospitals and similar institutions, and with interested food industry representatives. Issues raised as part of group discussions in these sessions have been incorporated into this report where possible.

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## **INVITATION FOR PUBLIC SUBMISSIONS**

FSANZ invites public comment on this Draft Assessment Report based on regulation impact principles and the draft variations to the Code for the purpose of preparing an amendment to the Code for approval by the FSANZ Board.

Written submissions are invited from interested individuals and organisations to assist FSANZ in preparing the Final Assessment of this Proposal. Submissions should, where possible, address the objectives of FSANZ as set out in section 10 of the FSANZ Act. Information providing details of potential costs and benefits of the proposed change to the Code from stakeholders is highly desirable. Claims made in submissions should be supported wherever possible by referencing or including relevant studies, research findings, trials, surveys etc. Technical information should be in sufficient detail to allow independent scientific assessment.

The processes of FSANZ are open to public scrutiny, and any submissions received will ordinarily be placed on the public register of FSANZ and made available for inspection. If you wish any information contained in a submission to remain confidential to FSANZ, you should clearly identify the sensitive information and provide justification for treating it as commercial-in-confidence. Section 39 of the FSANZ Act requires FSANZ to treat in-confidence, trade secrets relating to food and any other information relating to food, the commercial value of which would be, or could reasonably be expected to be, destroyed or diminished by disclosure.

Submissions must be made in writing and should clearly be marked with the word 'Submission' and quote the correct project number and name. Submissions may be sent to one of the following addresses:

**Food Standards Australia New Zealand**  
**PO Box 7186**  
**Canberra BC ACT 2610**  
**AUSTRALIA**  
**Tel (02) 6271 2222**  
**[www.foodstandards.gov.au](http://www.foodstandards.gov.au)**

**Food Standards Australia New Zealand**  
**PO Box 10559**  
**The Terrace WELLINGTON 6036**  
**NEW ZEALAND**  
**Tel (04) 473 9942**  
**[www.foodstandards.govt.nz](http://www.foodstandards.govt.nz)**

**Submissions need to be received by FSANZ by 6pm (Canberra time) 21 February 2007.**

Submissions received after this date will not be considered, unless agreement for an extension has been given prior to this closing date. Agreement to an extension of time will only be given if extraordinary circumstances warrant an extension to the submission period. Any agreed extension will be notified on the FSANZ website and will apply to all submitters.

While FSANZ accepts submissions in hard copy to our offices, it is more convenient and quicker to receive submissions electronically through the FSANZ website using the Standards Development tab and then through Documents for Public Comment. Questions relating to making submissions or the application process can be directed to the Standards Management Officer at the above address or by emailing [slo@foodstandards.gov.au](mailto:slo@foodstandards.gov.au)

Assessment reports are available for viewing and downloading from the FSANZ website. Alternatively, requests for paper copies of reports or other general inquiries can be directed to FSANZ's Information Officer at either of the above addresses or by emailing [info@foodstandards.gov.au](mailto:info@foodstandards.gov.au).



## **INTRODUCTION**

Proposal P272 has been prepared by FSANZ to address a number of issues arising from the implementation of certain labelling requirements for food for retail sale and food for catering purposes in the Code. During the transition to the Code, the interpretation and application of certain aspects of clause 2 of Standard 1.2.1 – Application of Labelling and Other Information Requirements, were identified by industry and enforcement officers as problematic. Clause 2 of Standard 1.2.1 provides exemptions from the general labelling requirements for food for retail sale and food for catering purposes and provides information requirements where a food is exempt.

In preparing this Proposal, it is FSANZ's intention to address issues of interpretation and application and not to re-open matters of broad regulatory policy considered during the development of the Standard.

There are several issues identified in this Proposal requiring further consideration and possible amendment in relation to clause 2 in Standard 1.2.1. These issues are considered in detail as four separate parts to this Proposal. These include:

- the labelling of food for retail sale including the limitations of the term 'food for retail sale' within the context of clause 2; the application of the exemptions in subclause 2(1); and the information requirements in subclause 2(2) which apply when food for retail sale is exempt from labelling;
- the labelling of food for catering purposes including the current definition in clause 1; the requirement for food for catering purposes to bear a label containing the information prescribed in the Code; the appropriateness of the exemptions in subclause 2(1); and the appropriateness of the information requirements in subclause 2(2);
- the labelling requirements for packaged meals supplied to, and provided by delivered meals organisations (DMOs); and
- the labelling requirements for meals provided in hospitals and similar institutions.

Although the last two issues fall within the scope of a review of the labelling requirements for food for retail sale, the matters raised in relation to these two issues are generally unique to that industry sector and are considered separately in this Proposal.

An outline of the proposed regulatory measures for each of these issues can be found at Attachment 3.

### **1. Background**

#### **1.1 Current Standard**

Food for retail sale and food for catering purposes, unless otherwise exempt, is required to bear a label setting out all the information prescribed in the Code. This means that food for retail sale or food for catering purposes unless exempt, must bear a label, which includes the following prescribed information:

- name of the food;

- lot identification;
- supplier details;
- mandatory warning and advisory statements and declarations in accordance with Standard 1.2.3;
- a list of ingredients;
- date marking information in accordance with Standard 1.2.5;
- directions for use and storage (where required for health & safety reasons);
- nutrition labelling (unless specifically exempt);
- percentage labelling; and
- country of origin (in Australia only).

To determine if a food for retail sale or a food for catering purposes is exempt from labelling, it is important to consider the specific exemptions in subclause 2(1) in Standard 1.2.1. The specific exemptions are where:

- the food is other than in a package (paragraph 2(1)(a));
- the food is in inner packages not designed for sale without an outer package, other than individual portion packs with a surface area no less than 30 cm<sup>2</sup>, which must bear a label containing a declaration of certain substances in accordance with clause 4 of Standard 1.2.3 (paragraph 2(1)(b));
- the food is made and packaged on the premises from which it is sold (paragraph 2(1)(c));
- the food is packaged in the presence of the purchaser (paragraph 2(1)(d));
- the food is whole or cut fresh fruit or vegetables, except sprouting seeds or similar products, in packages that do not obscure the nature or quality of the fruit or vegetables (paragraph 2(1)(e));
- the food is delivered packaged, and ready for consumption, at the express order of the purchaser (paragraph 2(1)(f)); and
- the food is sold at a fund raising event (paragraph 2(1)(g)).

Where food for retail sale or food for catering purposes is exempt from labelling there are certain information requirements set out in subclause 2(2) in Standard 1.2.1, which retailers and suppliers of food must comply with. Although there are some exceptions, generally the required information can either be displayed on or in connection with the display of the food or provided to the purchaser on request.

A copy of the current Standard 1.2.1 is provided in Attachment 2.

## **1.2 Historical Background**

There were several Proposals, which resulted in the development of Standard 1.2.1 in the Code. These Proposals included:

- Proposal P147 – The review of food not for retail sale;
- Proposal P161 – The review of specific labelling statements; and
- Proposal P175 – Information required for unpackaged food sold by retail.

There were also several other Proposals related to labelling that informed the current requirements in Standard 1.2.1.

In essence, Standard 1.2.1 resulted from the consolidation of a number of recommendations from a number of different proposals during the food standards review.

## 2. The Regulatory Problem

Standard 1.2.1 was developed as part of a general review of the former Australian *Food Standards Code* to provide a joint food standards system for Australia and New Zealand. As with other reviews of this kind, a number of issues have emerged during the implementation of the Code, which were not foreseen during the development of the Standard. In particular, placing food for retail sale and food for catering purposes together in clause 2 in Standard 1.2.1 has resulted in a number of unintended difficulties in the application of the current requirements.

Food for retail sale means a food that is sold to the public and therefore would be considered to be an end product. Food for catering purposes however, refers to *foods for use in restaurants, canteens, schools, caterers or self catering institutions, where food is offered for immediate consumption*. At this point, the food is likely to be subject to further processing before being made available for retail sale. An example of food for catering purposes is pasta that is sold to a restaurant to be used in the preparation of a meal. However, when the meal is sold to the consumer it is considered to be food for retail sale.

For the purposes of labelling, no distinction is made between food for retail sale and foods for catering purposes and due to the difference in where these foods sit in the food transaction chain, difficulties have arisen in the operation of clause 2, particularly in relation to the application of the current exemptions. For example, when the exemption in paragraph 2(1)(f) *the food is delivered packaged, and ready for consumption, at the express order of the purchaser*, is applied to food for retail sale, the ‘purchaser’ is clearly the ultimate consumer. However, when the exemption is applied in the context of food for catering purposes, the ‘purchaser’ of the food is potentially the caterer rather than the ultimate consumer. Consequently, as a result of food for retail sale and food for catering purposes being considered in the same clause, the scope of the current exemptions, particularly as they apply to food for catering purposes are potentially much broader than originally intended.

Further, some specific difficulties have arisen as a consequence of the broad definition of ‘package’ in Standard 1.1.1 and its interaction with the requirements in clause 2 in Standard 1.2.1, including the requirement for a package of food to ‘bear’ a label. This is particularly an issue for the labelling of food for catering purposes, but also has implications for the retail sale of food sold from vending machines, food sold in hampers and food wrapped on premises for food hygiene reasons.

Finally, matters such as the labelling requirements for packaged meals provided by DMOs and the labelling of meals provided in prisons, hospitals and similar institutions were not specifically considered during the development of Standard 1.2.1. As a consequence, the current exemptions in clause 2 in Standard 1.2.1 do not apply in all of the circumstances in which these meals are currently being provided. As a result, in particular, DMOs, hospitals and similar institutions are uncertain about their obligations in respect of labelling and there is a need to review and standardise these requirements for consistency in interpretation and application.

As previously indicated, the specific regulatory problems related to the application of clause 2 in Standard 1.2.1, fall into four broad categories.

- the labelling of food for retail sale;
- the labelling of food for catering purposes;
- the labelling of packaged meals provided by DMOs; and
- the labelling of meals provided in hospitals and similar institutions.

Since the release of the Initial Assessment Report, FSANZ has become aware of further issues in relation to the labelling of internet food. Internet labelling is a highly complex area and as such FSANZ does not intend to address these issues in Proposal P272.

Furthermore, submissions in response to the Initial Assessment Report requested a review of the ingredient labelling exemption for the declaration of certain food additives in compound ingredients when the compound ingredient makes up less than 5% of the final food. This exemption applies only to ingredient labelling outlined in Standard 1.2.4 and is therefore outside the scope of Proposal P272 which is to provide clarity and greater certainty on the interpretation and application of labelling and other information requirements outlined in Standard 1.2.1. Consequently, a review of the compound ingredient exemption has not been considered in this Proposal.

### **3. Objectives**

In developing or varying a food standard, FSANZ is required by its legislation to meet three primary objectives, which are set out in section 10 of the FSANZ Act. These are:

- the protection of public health and safety;
- the provision of adequate information relating to food to enable consumers to make informed choices; and
- the prevention of misleading or deceptive conduct.

In developing and varying standards, FSANZ must also have regard to:

- the need for standards to be based on risk analysis using the best available scientific evidence;
- the promotion of consistency between domestic and international food standards;
- the desirability of an efficient and internationally competitive food industry;
- the promotion of fair trading in food; and
- any written policy guidelines formulated by the Ministerial Council.

The specific objectives for this Proposal are to:

- remove barriers to the efficient operation of Standard 1.2.1 in relation to food for retail sale and food for catering purposes while at the same time maintaining a high level of public health and safety protection;
- ensure that changes in the structure and scope of Standard 1.2.1 in relation to food for retail sale and food for catering purposes do not adversely affect the ability of consumers to make informed choices;

- provide greater certainty to industry, government, consumers and non-government organisations such as delivered meal organisations and health care sectors regarding the labelling requirements in clause 2 in Standard 1.2.1; and
- provide clarity in order to promote consistent enforcement.

## 4. Food for Retail Sale

### 4.1 Background

Retail sale is defined in Standard 1.2.1 as *sale to the public*. In addition, the definition of ‘sale’ under food legislation is very broad. Therefore, where food is sold to the public at a supermarket or in a restaurant setting and even where food is served at a hospital or served on an aeroplane flight, it is considered to be food for retail sale.

Food for retail sale, unless otherwise exempt, is required to bear a label setting out all the information prescribed in the Code. The intention of the requirement is to ensure that consumers have accurate information about the nature and composition of the food to make an informed choice.

Clause 2 of Standard 1.2.1 was drafted with food for retail sale in mind. However, since the Code came into effect, FSANZ has been made aware of a number of problems associated with the application of the clause 2 requirements. In relation to food for retail sale, it is suggested that the following exemption subclauses 2(1)(a)-2(1)(g) be retained, but situations that are not fully captured by the current exemptions be examined and clarified.

- the food is other than in a package.
- the food is in inner packages not designed for sale without an outer package, other than individual portion packs with a surface area of no less than 30 cm<sup>2</sup>, which must bear a label containing a declaration of certain substances in accordance with clause 4 of Standard 1.2.3.
- the food is made and packaged on the premises from which it is sold.
- the food is packaged in the presence of the purchaser.
- the food is whole or cut fresh fruit and vegetables, except sprouting seeds or similar products, in packages that do not obscure the nature or quality of the fruit or vegetables.
- the food is delivered packaged, and ready for consumption, at the express order of the purchaser.
- the food is sold at a fund raising event.

There are several issues, which have been identified as requiring further consideration. These include:

- the use of the term ‘food for retail sale’;
- the current exemptions in subclause 2(1) which apply to food for retail sale, including;
  - clarification of exemption clause 2(1)(b); and
  - food sold at a fund raising event.
- circumstances where other exemptions are considered:
  - wrapped pick’n’mix confectionery;

- food sold in vending machines;
  - food sold in hampers;
  - food items wrapped at the retail outlet;
  - food items intra-company transferred; and
  - milk sold in glass bottles.
- the information requirements in subclause 2(2) which apply to food for retail sale when exempt from labelling;
  - the labelling requirements for packaged meals provided by delivered meal organisations (DMOs); and
  - the labelling requirements for foods served in hospital and similar institutions.

The difficulties with the current labelling requirements for packaged meals provided by DMOs and the appropriateness of the labelling requirements for meals served in hospitals and similar institutions is considered separately in sections 6 and 7 respectively.

As outlined, currently food for retail sale and food for catering purposes are considered together in clause 2 of Standard 1.2.1. However, clause 2 of Standard 1.2.1 was originally drafted with food for retail sale in mind. Given, the significant variation in the nature of food for retail sale to that of food for catering purposes, these foods will now be addressed separately in Standard 1.2.1.

## **4.2 The Use of the Term ‘Food for Retail Sale’**

### *4.2.1 Background*

Clause 2 of Standard 1.2.1 implies that the application of the term ‘food for retail sale’ applies to food at the point of retail sale, rather than at the point where the food is manufactured and packed for retail sale. This means that the onus is on the retailer to ensure that the products sold at the retail level are correctly labelled. Generally, manufacturers will fully label packaged food where the food will ultimately be sold to the public in that form. Where this does not occur a provision exists in clause 4 of Standard 1.2.1, which allows the retailer to request information to enable the retailer to comply with the compositional requirements and labelling or other declaration requirements of the Code.

### *4.2.2 The issue*

An Application (A496) from NSW Health was received on 28 March 2003. This Application is to amend the Code to place responsibility to fully label foods intended for retail sale on the manufacturer rather than it only being the responsibility of the retailer to ensure labelling is compliant with the Code. Before Standard 1.2.1 came into effect, manufacturers of retail products carried the onus of responsibility for ensuring that products packed for retail sale were compliant at the point of retail sale. As the labelling requirements for ‘food for retail sale’ are currently being considered as part of this Proposal, FSANZ considers it appropriate to address the issues raised by Application A496 as part of the Proposal P272 process.

The Applicant claims that it is not always practical to administer and enforce labelling requirements at the retail level and suggests all Standard 1.2.1 references to ‘food for retail sale’ be replaced with ‘food for retail sale and food intended for retail sale’, placing the onus on the manufacturer as well as the retailer.

The Applicant considers that large retail chains may have the commercial influence to ensure that suppliers fully and correctly label their product, however small business may not. Small retail businesses do not have the commercial influence to reject insufficiently labelled goods. Although small businesses can request that necessary labelling information accompany the food under clause 4 of Standard 1.2.1, this information does not have to be in the form of a label, and small businesses may not have the capacity to convert this information into labels. If at retail sale, a product is missing mandatory labelling information, enforcement authorities cannot take action against the manufacturer. Action can only be taken against the retailer and might include a written or verbal warning, seizure and recall or ultimately, prosecution.

It is important to think of this issue in the context of the whole Proposal. The Draft Assessment Report proposes that ‘food for retail sale’ be considered separately rather than together with ‘food for catering purposes’ as is currently the case. This is to allow more relevant labelling requirements for ‘food for catering purposes’.

#### 4.2.3 *Submitter comments*

The majority of submitters were in support of the manufacturer bearing the responsibility for labelling food manufactured, packaged and intended for retail sale. It was stated that this approach should pose no greater costs on manufacturers, highlighting that it could potentially save manufacturers, retailers and enforcement agencies the associated costs of subsequent labelling corrections. There was support to maintain separation between food for retail sale and food for catering purposes, suggesting this approach will allow more appropriate exemptions.

Other submitters whilst in support of this option highlighted potential areas for confusion. It was indicated that in practice, New Zealand retailers are still required to accept final responsibility for labelling under the *Fair Trading Act 1986*. It was also highlighted that the New Zealand *Food Act 1981* places the onus for compliance with all parties that sell food, including manufacturers, importers and retailers.

It was a common view that manufacturers should only be responsible for labelling where they package and label products intended for retail sale. Several submitters stated where products are supplied in bulk to a third party and the product is repacked, it is the third party that must be responsible for the accuracy of the labelling.

A few submitters did not support the manufacturer bearing responsibility for labelling food manufactured, packaged and intended for retail sale. It was stated that manufacturers cannot be held responsible for any re-packing of food that a third party may undertake stating that it places manufacturers in an uncontrollable position of liability. It was highlighted that whilst a manufacturer might supply a food in one packaging format, retailers may sell in another format, and in such circumstances manufacturers should bear no responsibility for a labelling infringement. As an alternative, it was suggested that FSANZ should consider strengthening the requirements to provide information upon request. This will assist retailers in obtaining the necessary information to comply with the Code.

#### 4.2.4 *Proposed approach*

It was always intended and generally understood that the expression ‘food for retail sale’ would cover the stages leading up to the point of the retail sale.

It was also understood that it is the responsibility of the manufacturer to fully label packaged foods which are intended for retail sale.

To ensure the manufacturer of a food that is intended for retail sale is responsible for the labelling of the food, FSANZ has developed the following definition of food for retail sale:

***Food for retail sale** includes food at the time it is manufactured or otherwise prepared, or distributed, transported or stored prior to retail sale, where the food is not intended for further processing, packaging or labelling.*

The proposed definition is intended to extend the definition of food for retail sale to include *food at the time it is manufactured or otherwise prepared, or distributed, transported or stored prior to retail sale, where the food is not intended for further processing, packaging or labelling.* The words 'sale to the public' have been removed as it is intended to rely on the ordinary accepted meaning of retail sale that is, sale to the public. Therefore, food for retail sale includes food at the point in which it is sold to the public, as well as food at the time it is manufactured where no further processing, packaging or labelling is intended as described in the proposed definition.

The proposed definition places responsibility for labelling all food for retail sale in accordance with the Code on the manufacturer or importer of the food as well as the retailer. Where a food is manufactured and packaged for retail sale and the food is not intended to undergo further manufacturing, the manufacturer at this point is responsible for the correct labelling of the food. If however a retailer or middleman alters the food, the packaging or labelling, this person will then be responsible for the labelling of the product in accordance with the Code. For example, if a retailer removes the exterior packaging of a food intended for retail sale and sells the individual items within that package separately, the retailer is then responsible for the labelling of these individual items.

The possibility of complications arising where alterations or additions are made to a single component on the label has been raised. However, it should be noted that according to clause 11 of Standard 1.1.1 – Preliminary Provisions – Application, Interpretation and General Prohibitions, the label on a package of food must not be altered, removed, obliterated or obscured except with the permission of the relevant authority. While a package of food may be relabelled by placing a new label over the incorrect one, providing the new label is not able to be removed so that the incorrect information is visible, this provision applies to the whole label and not to individual items on the label.

The reference to labelling within the definition only refers to labelling changes prescribed in the Code. Where a food is intended to be labelled further with information not prescribed in the Code for example with a price tag, the food is still considered to be food for retail sale where the food meets the other requirements of the definition.

As outlined in section 4.2.3 of this report, there were expressed concerns from submitters in relation to the New Zealand *Fair Trading Act 1986* and potential confusion surrounding the responsibility of labelling. One of the principles in developing the Code was to avoid unnecessary duplication and where possible to ensure consistency with fair trading laws. The proposed definition of food for retail sale is intended to extend the ordinary meaning of food for retail sale that is, sale to the public to include manufacturers and importers.



This proposed definition is consistent with the current requirement under the New Zealand *Food Act 1981*, which places the onus for compliance with all parties. Depending on the circumstances and the proposed enforcement action, potential for confusion is unlikely to arise as the *New Zealand Fair Trading Act 1986* is limited to dealing with issues related to misleading and deceptive conduct, whilst the New Zealand *Food Act 1981* extends to compliance with prescribed labelling requirements under the Code.

### **4.3 Inner Portion Packs Exemption**

#### *4.3.1 Background*

During the review of the former Australian *Food Standards Code*, the then Australia New Zealand Food Standards Authority (ANZFA), now FSANZ, considered in Proposal P161 – Review of Specific Labelling Statements, that inner packages in the form of individual ready to eat portion packs should be required to declare the presence of substances that may cause severe adverse reactions. It was considered that not all inner packages should be required to declare these substances, only those that are in individual portion packs that may be separated from the outer package and stored or used in isolation.

Consequently, the following exemption clause was included in Standard 1.2.1: *the food is in inner packages not designed for sale without an outer package other than individual portion packs which must bear a label containing a declaration of certain substances in accordance with clause 4 of Standard 1.2.3.*

During the transition period for the Code it became apparent that the above exemption clause required clarification. Consequently, Proposal P246 – Labelling Amendments Omnibus, was prepared. Proposal P246 clarified the terms inner package and individual portion pack as follows: an inner package is considered to include a package or packages of food contained within an outer pack that would not normally be removed from the outer pack and consumed separately, e.g. cellophane wrapped cracker biscuits. An individual portion pack is considered to include single serve packages that would normally be removed from the outer package and consumed separately as an individual serve e.g. muesli bars, fruit bars, cheese sticks and single serve chocolates. It was not considered necessary to define these terms in the Code.

Proposal P246 also recognised that providing a declaration of allergens on very small individual portion packs such as confectionery, could be problematic for industry given the limited available space for printing. Therefore, ANZFA considered that individual portion packs with a surface area of not more than 30 cm<sup>2</sup> should be exempt from allergen labelling. The exemption paragraph was amended to this effect.

Consequently, paragraph 2(1)(b) of Standard 1.2.1 provides food for retail sale with an exemption from bearing a label setting out all the information prescribed in the Code where *the food is in an inner packages not designed for sale without an outer package, other than individual portion packs with a surface area of no less than 30 cm<sup>2</sup>, which must bear a label containing a declaration of certain substances in accordance with clause 4 of Standard 1.2.3.*

In summary, this means that where an inner package is not designed for sale without an outer package, it is exempt from labelling.

In the case of individual portion packs that are not designed for sale without an outer package, the individual portion packs are still required to be allergen labelled in accordance with clause 4 of Standard 1.2.3 where the individual portion packs are 30 cm<sup>2</sup> or greater. Where the individual portion packs are less than 30 cm<sup>2</sup>, the individual portion packs are exempt from labelling, including allergen labelling.

#### 4.3.2 *The issue*

Paragraph 2(1)(b) as currently written is very lengthy which appears to have resulted in some lack of understanding of what is covered by the exemption and how the exemption applies.

#### 4.3.3 *Submitter comments*

The majority of submitters supported the need to clarify and/or reword clause 2(1)(b) of Standard 1.2.1. Many submitters indicated the current wording of the clause is acceptable, but would support any simplification of the wording or the addition of an editorial note. Other submitters do not believe rewording is necessary, however also suggested the use of an editorial note to clarify the intent of the clause.

Several submitters suggested that the clause would be clearer if it was broken down into two or more sentences. Some submitters sought further clarification of the definitions 'inner packages' and 'individual portion packs' and it was also suggested to insert the words 'ready to eat' to describe portion packs, to clearly reflect the intention of the Standard.

#### 4.3.4 *Proposed approach*

FSANZ proposes to reword paragraph 2(1)(b) to reduce confusion in relation to its application, and clarify the principle on which it is based. In addition, FSANZ proposes to require mandatory warning statements and declarations under clause 3 of Standard 1.2.3 to be on the label of inner portion packs 30 cm<sup>2</sup> or greater. Therefore, the following wording is proposed:

*b) the food is in an inner package not designed for individual sale. Despite this, individual portion packs in a container or wrapper with a surface area of 30 cm<sup>2</sup> or greater must bear a label containing information in accordance with clauses 3 and clause 4 of Standard 1.2.3*

While inner packages and individual portion packs are not defined in the Code, the intent of the terms were outlined in P161 – Review of specific labelling statements and clarified in Proposal P246, therefore FSANZ does not intend to review these terms. However, portion packs that are combined together to make up a food item, such as taco shells and a sauce mix, or salad and a dressing do not appear to be captured by the description of inner portion packs provided in Proposals P161 and P246. Proposals P161 and P246 collectively describe inner portion packs as individual ready to eat portion packs that are consumed separately. However, FSANZ considers that inner packs that are combined together to make up a food item are in fact inner portion packs and require allergen labelling when 30 cm<sup>2</sup> or greater.

FSANZ considers that it is necessary to require on the label of inner portion packs that are 30 cm<sup>2</sup> or greater, mandatory warning statements and declarations listed under clause 3 of Standard 1.2.3 in addition to the mandatory declarations required under clause 4 of Standard 1.2.3.

A warning statement is a prescribed statement which must be expressed on a label in the exact words and format specified. Currently, there is only one warning statement required under clause 3 of Standard 1.2.3, that is for royal jelly presented as a food or for food containing royal jelly as an ingredient. The warning statement is ‘This product contains royal jelly which has been reported to cause severe allergic reactions and in rare cases, fatalities, especially in asthma and allergy sufferers’.

It appears that during the development of the current labelling requirement for inner portion packs, warning statements were not considered. Warning statements are generally required where the risk to public safety is high and awareness of the potential risk is low. Therefore, FSANZ considers it necessary that warning statements be provided on inner portion packs 30 cm<sup>2</sup> or greater.

#### **4.4      **Wrapped Pick ‘n Mix Confectionery and Similar Small Package Items****

##### *4.4.1    Background*

Wrapped pick’n’mix confectionery are generally small, loose individual confectionery items which are often novelty shaped and sold out of display or self-serve dispensing units. Currently, in accordance with paragraph 2(1)(a) in Standard 1.2.1, if a food item is sold *unpacked* it is not required to bear a label. However, certain information requirements may be required to be displayed on or in connection with the display of the food or provided to the purchaser upon request. For example, if a substance that is listed in the table to clause 4 of Standard 1.2.3 which may cause a severe adverse reaction in certain individuals is present in an unpackaged pick’n’mix confectionery item, a label declaring the presence of the substance must be displayed on or in connection with the display of the food or provided to the purchaser upon request.

A *packaged* pick’n’mix confectionery item will in most cases, fall within the definition of a small package. A small package is defined under clause 1 of Standard 1.2.1 *as a package with a surface area of less than 100 cm<sup>2</sup>*. Small packages are exempt from the following core labelling requirements:

- lot identification of food;
- ingredient labelling;
- date marking (except where the food should not be consumed after a certain date because of health and safety reasons);
- nutrition information panels (where no nutrition claim is made in relation to the food); and
- percentage labelling of characterising ingredients or components.

However, a small package must be labelled with:

- the name of the food;
- the name and business address details of the supplier;
- directions for use or storage (where for reasons of public health and safety, consumers need appropriate directions for use or storage of the food);
- mandatory warning and advisory statements and declarations. (In the case of warning statements, the statements must be in a type size not less than 1.5 mm on small packages, rather than the prescribed 3 mm for other packages); and

- in Australia, the country of origin.

Given that pick'n'mix confectionery items are generally long-life, shelf-stable foods, it is unlikely that these items require directions for use and storage. However, other small package items may require directions for use and storage.

#### 4.4.2 *The issue*

The confectionery industry has raised concerns regarding the labelling requirements of packaged pick'n'mix confectionery items. The confectionery industry considers that small packaged confectionery items should be considered in the same context as unpackaged confectionery items, as many confectionery items are only packaged for hygienic protection. Additionally, the confectionery industry has advised FSANZ that labelling novelty shaped items in a legible and prominent manner is particularly problematic. Other small packaged items must also be taken into account when considering the labelling requirements for these items.

#### 4.4.3 *Submitter comments*

The majority of submitters supported an exemption. It was suggested that information could be displayed in association with or in connection with the food, highlighting the retailer's responsibility to ensure information is displayed and is up to date with information provided by manufacturers.

One submitter expressed concern surrounding allergen declarations in relation to public health and safety. It was noted that confectionery often contains potential allergens and therefore the labelling requirements should ensure that information related to ingredients, mandatory declarations and warning and advisory statements are readily available to the consumer.

Some submitters noted the difficulties surrounding labelling of small packages, including the practical limitations on print size and legibility and supported information displayed in association with the food. However one submitter opposed such an approach, raising concerns that this may potentially create precedents for other products that manufacturers may claim to be difficult to label.

It was highlighted that these labelling issues are already well covered by Standards that define 'small packages' and/or 'unwrapped food' and therefore a further exemption is not required.

#### 4.4.4 *Proposed approach*

FSANZ proposes the *status quo*: small confectionery items or other similar small package items should be labelled with the information that is required on all small packages. In most cases only the name of the food, supplier details, mandatory warning and advisory statements and declarations in Standard 1.2.3 and the country of origin (for those items sold in Australia) are required on packaged pick 'n mix confectionery items.

In order to prevent confusion and provide adequate information to consumers to make informed choices it is important to ensure that all labelling standards are applied consistently.

Whilst the labelling of other small package items (such as cheeses, spreads, sauces, snacks, salad dressing) was not raised as a problem in public submissions, FSANZ considers it necessary to consider the labelling requirements of small package items as a whole, and not to consider confectionery items as a special category of food. All the labelling standards contained in Part 1.2 of the Code operate as ‘horizontal’ standards in that they apply across all categories of food. The advantage of horizontal standards is that specific principles, such as providing adequate information to consumers to make informed choices, can be applied across all foods, not just those specific commodities described within a standard. To that end, FSANZ should align any proposed amendments to the Code with the approach of horizontal labelling.

When reviewing a standard, FSANZ must have regard to the protection of public health and safety, the provision of adequate information relating to food to enable consumers to make informed choices and the prevention of misleading or deceptive conduct. In the case of small packages, this means that:

- consumers should have adequate information on what it is they are eating: the name of the food must be declared;
- for food safety reasons there needs to be enough information to effect a food recall: lot identification number and name and address of supplier must be declared;
- to protect public health and safety there should be a declaration of the presence of certain substances that may cause severe adverse reactions in sensitive individuals and, if applicable, warning and advisory statements. Such a requirement is particularly important, as many confectionery and other small package items contain substances that may cause severe adverse reactions in sensitive individuals and these substances should be clearly identified on the label;
- to avoid claims being made without providing adequate information to the consumer, if a nutrition claim is made on a small package then the claim overrides the exemption for nutrition labelling; and
- if there is a date after which the food contained in the intact small package should not be consumed because of health and safety reasons, a date mark must be included on the label.

Consequently, FSANZ considers it is not in the best interest of public health and safety to allow any exemption from labelling for small packaged foods.

FSANZ is of the view that small confectionery packaged items can not be considered in the same context as unpackaged confectionery items, as suggested by some stakeholders. Where a food item that is unpackaged is exempt from labelling, information still needs to be provided, in most cases this is on request. This approach applies to all food for retail sale, including confectionery items. Packaged items have the potential to be stored for longer periods of time. If information required on small packages were to be provided at the point of sale, such information may be lost by the time the food is consumed.

FSANZ appreciates the concerns of the confectionery industry but considers small package confectionery items are able to be labelled with the minimum small package information. Currently there are many examples of compliance with the current requirements in the marketplace. Where labelling small package confectionery items is problematic, industry has responded by innovative use of slightly larger packaging in order to fit all information required legibly on the small package. The market has responded to existing labelling requirements. FSANZ is not aware that there is any evidence of regulatory failure.

FSANZ is aware that small packaged confectionery items that are sold within a larger package could be removed from the package and sold separately, e.g. in a restaurant or at a conference. With the proposed definition of food for retail sale (refer to section 4.2), these small confectionery items will need to be individually labelled in accordance with the Code if they are intended for individual retail sale. If however, these small confectionery items are not intended for individual retail sale, it is up to the retailer of the food, i.e. the restaurateur or the conference operator, to label these foods correctly. The restaurateur or conference operator needs to take this into account when ordering such items, and may need to order food items that are clearly intended for retail sale.

## **4.5 Fundraising Events**

### *4.5.1 Background*

Standard 1.1.1 defines fundraising events as *events that raise funds solely for community or charitable purposes and not for personal gain*. Currently under subclause 2(1)(g) of Standard 1.2.1, food sold at a fundraising event is exempt from general labelling.

### *4.5.2 The issue*

The current exemption subclause 2(1)(g), together with the definition of a fundraising event, provides food sold at fundraising events with an exemption from labelling only where:

- the food is sold at an event; and
- the funds raised at that event are solely for community or charitable purposes and not for personal financial gain.

#### 4.5.2.1 An event

The Macquarie and Oxford Dictionaries define ‘event’ in several ways:

- in a general way (anything that happens or is regarded as happening, an occurrence);
- in a philosophical way (something which occurs in a certain place during a particular interval of time); and
- in a sporting sense (each of the events in a program of one sport or a number of sports).

The general sense can be taken to imply that an event is a single occurrence. The philosophical sense implies that an event has a clearly defined start and finish, that an event takes place during a particular time. A continuous activity without end (or with only temporary interruptions) would not seem to be an ‘event’.

Therefore, where food is sold for community or charitable purposes and not for personal financial gain, yet is sold on a continual basis, it is not exempt under this subclause.

#### 4.5.2.2 Funds raised are solely for community or charitable causes

Currently, where food is sold at a fundraising event and only a portion of the proceeds go to the community or to charitable causes, the food will not fall under the exemption.

As a result many organisations that produce food for charitable and community causes must fully label their products unless of course another exemption applies such as the food is packaged in the presence of the purchaser.

Concerns have been raised by enforcement agencies on the difficulties in establishing what funds are *solely for community or charitable causes and not for personal financial gain*. Many operations contribute funds to charitable organisations but take a commission in order to cover expenses. It is questionable in these circumstances whether the funds raised are considered to be solely for community or charitable causes and not for personal financial gain. In addition, it is difficult to determine that where cash is raised by certain ‘charitable’ organisations that none of the cash raised contributes to personal financial gain.

#### 4.5.2.3 Food given away for charitable causes

Another matter of concern with the current exemption is that where food is given away for community or charitable causes, for example at soup kitchens or food banks, the food may still require full labelling. The term ‘retail sale’ must be read in the context of food legislation, which contains very broad definitions of the term ‘sell’. The Model Food Act defines ‘sell’ as including, amongst other things:

- disposing of by any method for valuable consideration;
- providing under a contract of service;
- dispose of by way of raffle, lottery or other game of chance;
- offer as a prize or reward;
- giving away for the purpose of advertisement or in furtherance of trade or business;
- supplying under a contract (whether or not the contract is made with the consumer of the food), together with accommodation, service or entertainment, in consideration of an inclusive charge for the food supplied and the accommodation, service or entertainment;
- supplying food (whether or not for consideration) in the course of providing services to patients or inmates in public institutions; or
- selling for the purpose of resale.

This encompasses activities with a commercial flavour, as well as those that appear less commercially focussed. For instance, the supply of food to a patient in a public hospital, would still be considered to be selling food. A contract under which a charitable organisation received government funding or otherwise received consideration to supply meals to destitute people, may result in the food being considered to be ‘sold’. Therefore, if an activity falls within the scope of the definition of ‘sell’ and happens in a public context, the food is required to be fully labelled. That is, unless the food is given away at a fundraising ‘event’ or otherwise meets the requirements set out in one of the other exemptions outlined in subclause 2(1) of Standard 1.2.1.

#### *4.5.3 Submitter comments*

Submitters considered that there was uncertainty surrounding the current definition of fundraising event in the Code. It was a common view that the terms ‘fundraising event’, ‘one-off event’ and ‘sale’ need to be clarified, either by reviewing the current regulatory definitions or by the addition of editorial notes outlining examples. Clarification was also sought surrounding the term ‘solely for charitable causes’.

There was general support for food sold by charities or at genuine charitable events to be exempt from complex labelling requirements, with retention of the current health and safety requirements listed in Clause 2(2) of Standard 1.2.1.

Other submitters did not support the provision of further exemptions in this area, stating that a situation has arisen where community charity groups are applying for tenders to supply food in direct competition to normal businesses.

#### 4.5.4 Proposed approach

FSANZ does not propose to amend the exemption that applies to food sold at a fund raising event. However, further guidance on the labelling requirements that apply to a fund raising events will be provided in a user guide on food labelling. FSANZ will work with jurisdictions in the development of the guide.

An editorial note will be provided in Standard 1.2.1 indicating that fund raising event organisers should be aware of other State, Territory and New Zealand legislative requirements when conducting a fund raising event. FSANZ is aware that each jurisdiction has its own rules for the conduct of fund raising events; including limitations on the number of events that can take place within a year. Fundraising organisers are responsible in ensuring that they are compliant with any of the legislative requirements.

#### **Editorial note:**

Fund raising event organisers should be aware that there may be State or Territory legislative requirements that need to be complied with in order to conduct the event.

## 4.6 Vending Machines

### 4.6.1 Background

Under the current definition of package in Standard 1.1.1, a vending machine is considered to be a package. Vending machines may contain individual food products on which the labels are obscured by virtue of being contained within the outer package i.e. the vending machine.

A package is defined in Standard 1.1.1 as *any container or wrapper in or by which food intended for sale is wholly or partly encased, covered, enclosed, contained or packaged and, in the case of food carried or sold or intended to be carried and sold in more than one package, includes every such package, but does not include –*

- (a) *bulk cargo containers; or*
- (b) *pallet overwraps; or*
- (c) *crates and packages which do not obscure labels on the food; or*
- (d) *transportation vehicles.*

In accordance with the Code, labels on food packages must be visible to the consumer at the time of purchase.



Subclause 11(1) of Standard 1.1.1 states *subject to subclause (2), the label on a package of food must not be altered, removed, erased, obliterated or obscured except with the permission of the relevant authority.*

Subclause 2(1) of Standard 1.2.9 states *unless otherwise expressly permitted by this Code, each word, statement, expression or design prescribed to be contained, written or set out in a label must, wherever occurring, be so contained, written or set out legibly and prominently such as to afford a distinct contrast to the background, and in the English language.*

#### 4.6.2 *The issue*

Under the current definition of ‘package’ in Standard 1.1.1, a vending machine can be considered to be a package and therefore should be labelled in accordance with the requirements of the Code. However, it is not practical to require all the labelling information of the Code to be displayed on the outside of the vending machine where in most cases the packages within are fully labelled and accessible once the product has been purchased.

Having a label obscured within the vending machine means that at the time of sale, the information on the label is not set out legibly or prominently in the view of the prospective purchaser. Given the requirements of subclause 11(1) of Standard 1.1.1 and subclause 2(1) of Standard 1.2.9, information on labels on food packages within a vending machine should be visible to the consumer at the time of purchase.

It is possible that food sold in vending machines may meet the requirements of the exemption subclauses 2(1)(d) *the food is packaged in the presence of the purchaser* or 2(1)(f) *the food is delivered packaged and ready for consumption, at the express order of the purchaser* or perhaps the exemption subclause 2(1)(c) *the food is made and packaged on the premises from which it is sold*. In addition, it may be argued that where food is dispensed from a vending machine in an unpackaged state, the food is exempt under subclause 2(1)(a) *the food is other than in a package*. The exemption clause 2(1)(f) has the potential to apply in all circumstances food is sold from a vending machine, however this is clearly not the intention of this exemption.

#### 4.6.3 *Submitter comments*

The majority of submissions received supported an exemption for vending machines to require full external labelling, providing that packages within the vending machine are fully labelled. It was a common view that it is not practical to require labelling on vending machines, as items inside may vary regularly and external labels may be subject to vandalism. Submitters indicated that it would be a more practical approach to ensure that all foods being sold from the vending machine meet the current labelling standards.

It was stated in some submissions that the majority of food purchased from vending machines is generally consumed immediately, therefore the same information that is required to be provided at point of sale for other foods exempt from labelling may be desirable on the exterior of the machine.

Several submitters supported some external labelling information (including mandatory declarations, warnings and advisory statements), particularly when items within the vending machine were unlabelled.

It was acknowledged that the consumer has no other means of identifying the suitability of the food before purchase. The name of the food, supplier details and lot identification or date marking were also suggested to be required on the exterior of the machine or in an associated pamphlet or poster attached to the machine, when packages within are unlabelled.

In contrast, other submitters believe the majority of consumers that purchase food from vending machines are familiar with the product and people with allergies or sensitivities know which products to avoid, therefore external labelling should not be necessary.

#### 4.6.3 *Proposed approach*

##### 4.6.3.1 The vending machine

FSANZ proposes to reword the definition of package to exclude vending machines. The new definition of package would be:

**package** means any container or wrapper in or by which food intended for sale is wholly or partly encased, covered, enclosed, contained or packaged and, in the case of food carried or sold or intended to be carried and sold in more than one package, includes every such package, but does not include –

- (a) bulk cargo containers; or
- (b) pallet overwraps; or
- (c) crates and packages which do not obscure labels on the food; or
- (d) transportation vehicles; or
- (e) a vending machine; or
- (f) a hamper; or
- (g) food served on a covered plate, cup, tray or other food container in prisons, hospitals or other similar institutions listed in the Table to clause 8 of Standard 1.2.1.

To assist industry and enforcement officers in interpreting this definition, a description of a vending machine will be provided in a user guide on food labelling.

FSANZ, considers it necessary to provide supplier details on the outside of the vending machine to assist in a food recall should one be necessary. Supplier is defined in Standard 1.1.1 as *the packer, manufacturer, vendor or importer of the food in question*. The vending machine operator is considered to be the vendor and therefore, vending machine operator details would meet the requirements of the Code. A clause has been created in Standard 1.2.2 – *Food Identification Requirements* requiring a vending machine from which food is sold to clearly display the name and business address in Australia or New Zealand of the supplier of the food.

Food items within a vending machine must comply with the Code in their own right. Where food items within the vending machine are fully labelled, information required by the Code is not practical or necessary on the outside of the vending machine, as details would need to be updated regularly as new stock is added.

#### 4.6.3.2 Food items within the vending machine

As mentioned, food items within a vending machine must comply with the Code in their own right. There are circumstances where a food within a vending machine cannot be labelled at the time at which the vending machine is stocked. For example, vending machines that dispense hot drinks such as hot chocolate, coffee and tea where the purchaser chooses the addition of milk or sugar. In this circumstance it is not possible to fully label the packaging i.e. paper cup, at the time of stocking the vending machine as it is not possible to determine what ingredients the purchaser will choose. Furthermore, it is likely that the food item within the vending machines will meet the requirements of an exemption for food for retail sale. Such as:

- *2(1)(a) the food is other than in a package;*
- *2(1)(c) the food is made and packaged on the premises from which it is sold;*
- *2(1)(d) the food is packaged in the presence of the purchaser; and*
- *2(1)(f) the food is delivered packaged, and ready for consumption, at the express order of the purchaser.*

Where food sold within a vending machine meets the requirements of an exemption, the information requirements for food for retail sale as outlined in section 4.11 will apply, including the declaration of certain substances in food that may cause severe adverse reactions in sensitive individuals. In general the information requirements may be displayed on or in connection with the display of the food or provided to the purchaser upon request.

However, an issue still remains with exemption clause *2(1)(f) the food is delivered packaged, and ready for consumption, at the express order of the purchaser*. This exemption may apply to food sold in vending machines in all circumstances and this is clearly not the intention of the exemption. Therefore, a clause has been added to Standard 1.2.1 to specify that this exemption does not apply to food sold in vending machines.

### **4.7 Hampers and Similar Packages**

#### *4.7.1 Background*

Under the current definition of ‘package’ in Standard 1.1.1, a hamper, like a vending machine is considered a package and therefore requires full external labelling. In addition, the legibility requirements of subclause 11(1) of Standard 1.1.1 and subclause 2(1) of Standard 1.2.9, require the information on labels on food packages within a hamper to be legible and visible to the consumer at the time of purchase. Refer to section 4.6.1 for the definition of package and the legibility requirements of Standards 1.1.1 and 1.2.9.

#### *4.7.2 The issue*

As with vending machines, labels on food packages within hampers may be not visible to the consumer at the time of purchase. A hamper is a package, and therefore should be labelled with the contents of the hamper. However, feedback from industry suggests that due to the large number of products within hampers it is difficult to label the outside with all the required information without affecting the presentation. As hampers are usually purchased as a gift, the presentation is of importance to the consumer. Additionally, products within hampers will in most cases also be sold individually, and therefore these products are fully labelled.

#### 4.7.3 *Submitter comments*

The majority of submitters support an exemption from full external labelling on hampers and similar packages, providing the internal food items are fully labelled. It was acknowledged when items are not packaged, the required information should be provided on the outside of the hamper.

Several submitters supported some external labelling, particularly allergen labelling, when items within the hamper were not labelled. It was suggested that traceability information including supplier's contact details, batch code and/or date marking to cover the least durable food items in the hamper should also be provided on the outside of the hamper.

However, some submitters did not support an exemption, stating that labelling the outside of a hamper is in line with the current requirements and is achievable. It was suggested that all items within the hamper should be fully labelled as individual food products may be stored for some time.

#### 4.7.4 *Proposed approach*

FSANZ proposes to exclude hampers from the definition of package. The amended definition of package would be:

**package** means any container or wrapper in or by which food intended for sale is wholly or partly encased, covered, enclosed, contained or packaged and, in the case of food carried or sold or intended to be carried and sold in more than one package, includes every such package, but does not include –

- (a) bulk cargo containers; or
- (b) pallet overwraps; or
- (c) crates and packages which do not obscure labels on the food; or
- (d) transportation vehicles; or
- (e) a vending machine; or
- (f) a hamper; or
- (g) food served on a covered plate, cup, tray or other food container in prisons, hospitals or other similar institutions listed in the Table to clause 8 of Standard 1.2.1.

The following definition of a hamper would be provided in the Code:

**Hamper** means a decorative basket, box or receptacle containing any number of separately identifiable food items that are not offered for individual sale.

The following Editorial note would also be provided.

**Editorial note:**

A hamper may also contain non - food items such as decorative cloths, glasses and dishes.

The labelling requirements of a hamper would be outlined in subclause 4(2) of Standard 1.2.1.

This clause would state that the exemptions in subclause 2(1) of Standard 1.2.1 would not apply to food items within a hamper. It would also require that all items within the hamper bear a label setting out all the information prescribed in the Code. In the case of unpackaged items within a hamper, these items would have to be accompanied with documentation setting out the information prescribed in the Code. This could be achieved by the inclusion of a pamphlet within the hamper.

The following editorial note would also be provided.

**Editorial note:**

For the purposes of paragraph 2(4)(c) the information may be within, or attached to the outer of the hamper.

A clause would be created in Standard 1.2.2 – Food Identification Requirements outlining that the label on a hamper must include the name and business address in Australia or New Zealand, of the supplier of the food.

At Initial Assessment, FSANZ considered that when the packages within the hamper are fully labelled, the protection of public health and safety should be the criteria for determining which information is prescribed on the outside of the hamper. This information would include the mandatory warning and advisory statements and declarations as well as date marking, and the name of the food, lot identification and supplier details to facilitate a food recall should one be required. However, given that mandatory warning and advisory statements and declarations, date marking, the name of the food and lot identification are provided on the packages within the hamper, FSANZ considers it not necessary to duplicate this information on the outside of the hamper.

While supplier details are also ordinarily provided on the packages within the hamper, FSANZ proposes that this information be provided on the outside of the hamper for traceability purposes. Supplier details will provide a point of contact for enforcement officers and for the general public. Supplier is defined in Standard 1.1.1 to include the packer, manufacturer, vendor or importer of the food in question. Therefore, the supplier may include the retailer or packer of the hamper.

At Initial Assessment, AQIS was of the view that full labelling should be required on the packages within the hamper as well as on the hamper itself otherwise hampers would be required to be opened at the point of import to ensure the contents are compliant with the Code. However, FSANZ considers that opening a hamper in order to check compliance of individual components would be required regardless of whether the outside of the hamper is labelled as the packages within must also be labelled with certain information in accordance with the Code.

The New Zealand and State representatives on the Implementation and Enforcement Advisory Group which was consulted on this issue in October 2006 had no concerns with exempting hampers where the packages within are fully labelled, providing supplier details were provided on the outside of the hamper.

FSANZ is aware that in the current market place, hampers may be fully labelled on the exterior in accordance to the current requirements of the Code by means of a pamphlet.

This practice can continue under the amended Code. FSANZ supports any initiative that assists consumers in making informed purchasing decisions.

## **4.8 Food Items Wrapped at the Retail Outlet**

### *4.8.1 Background*

Where products are sold packaged, unless an exemption in subclause 2(1) of Standard 1.2.1 applies, the food must be fully labelled. If the food is displayed unpackaged however, the exemption subclause 2(1)(a) *the food is other than in a package* of Standard 1.2.1 would apply.

Under Clause 4 of Standard 1.2.1, where a purchaser requests a package of food that is not for retail sale, not for catering purposes or supplied as an intra company transfer, it must be accompanied by sufficient information to allow the purchaser to comply with the labelling and compositional requirements of the Code.

Queensland Health has informed FSANZ that a common practice for small and medium sized food businesses is to purchase unpackaged food and then package the food in clear, plastic food wrap and display the food for self-service. For example, a whole cake purchased by a cafe, cut into portions, wrapped in Gladwrap and displayed on a counter for retail sale. Other examples include doughnuts, slices, sandwiches, rolls and other similar items that are purchased by the retailer and not made on site. This practice is undertaken in order to comply with the food safety requirements. In Australia this practice complies with Standard 3.2.2 – Food safety practices and general requirements, in particular subclauses 8(1) and 8(4):

*8(1) A food business must, when displaying food, take all practicable measures to protect the food from the likelihood of contamination.*

*8(4) A food business must not display for sale on any counter or bar, any ready-to-eat food that is not intended for self-service unless it is enclosed, contained or wrapped so that the food is protected from likely contamination.*

### *4.8.2 The issue*

The labelling requirements of the products mentioned above were raised at a Technical Advisory Group (TAG) meeting in April 2003 attended by representatives of the jurisdictions, FSANZ, the Department of Agriculture, Fisheries and Forestry (DAFF) and AQIS. Some jurisdictions considered that it was not appropriate that the above food products be required to be fully labelled because they were presented packaged, in order to comply with the hygienic practices requirements of Standard 3.2.2. The development of a ‘guidance note’ indicating that ‘wrapping’ for the purposes of complying with the Food Safety Standards does not of itself constitute a package, was discussed. However, certain jurisdictions noted that there might be a risk of such an exemption picking up a broader range of products than intended.

Queensland Health has raised the issue that in some cases there are problems with food manufacturers refusing or being reluctant to divulge the composition of the food items supplied, in order for food retailers to comply with the Code. However, manufacturers have an obligation to provide this information.

#### 4.8.3 *Submitter comments*

Submitters' views were mixed in relation to labelling requirements for foods that are wrapped at the retail outlet, solely to comply with Food Safety Standards.

Many submitters supported an exemption from labelling where food is wrapped at the retail outlet for food safety reasons. However, it was highlighted that it is hard to differentiate between packaged food and food packed or wrapped to comply with the Food Safety Standards. Many submitters identified this as a problematic area and believe an exemption would provide a loophole for retailers to avoid full labelling requirements and would facilitate non-compliance with labelling standards.

There was some support for a guidance note to apply to any product that is received unwrapped by the retailer that is then rewrapped by the retailer for hygiene reasons. Others believe a guidance note would be open to misinterpretation and abuse.

#### 4.8.4 *Proposed approach*

FSANZ's proposed approach is the *status quo* which is not to exempt food wrapped at the retail outlet to comply with food safety standards from labelling requirements. FSANZ considers that to provide an exemption from labelling for food that is wrapped at the retail outlet will potentially capture many foods that are sold in the packaged form e.g. meat displayed in wrapped trays at a supermarket, and any other food that is wrapped at the retail outlet whether that be for food safety reasons or not. In addition, it will be difficult for enforcement officers to differentiate between packaged food and food packed or wrapped to comply with the food safety standards. Most packaging fulfils some food safety function.

Manufacturers must provide retailers with any information necessary for the retailer to comply with the labelling requirements of the Code under subclause 3(2) of Standard 1.2.1. If however, labelling is particularly problematic for the retailer, the retailer has the option to display the food in a clear covered dome or other type of containment and package the food in front of the purchaser (e.g. in a paper bag) when the food is taken away and the food will be exempt from labelling as the food *is packaged in the presence of the purchaser*. If the food is eaten on the premises, again the food can be displayed in a clear covered dome or other type of containment and put on a plate when purchased and the food will be exempt from labelling as it *is other than in a package*.

### **4.9 Food Items Intra-Company Transferred**

#### 4.9.1 *Background*

Food that is made and packaged from the premises from which it is sold is currently exempt from full labelling under subclause 2(1)(c) *the food is made and packaged on the premises from which it is sold*, on the basis that consumers can ask retailers questions about the composition of the food.

#### 4.9.2 *The issue*

The labelling requirements of food items that are made and packaged at one site then intra company transferred to another location for sale, was raised at a TAG meeting in April 2003 attended by representatives of the State and Territory Health Departments and it was agreed that this issue required further consideration.

During the review of the former Australian *Food Standards Code*, the exemption in paragraph 2(1)(c) *the food is made and packaged from the premises from which it is sold* was included on the basis that consumers could ask retailers specific questions about the composition of the food where this situation applied. Paragraph 2(1)(c) was intended to apply in the following situations i.e. where food was made and weighed, dispensed, counted, measured into a pack by the customer or retailer on the premises where the retail sale took place e.g. bakeries, butchers, take away food outlets and sandwich bars. However, food items that are made and packaged at a site, for example at a bakery, that are then intra company transferred to satellite bakeries, no longer meet the requirements of the exemption paragraph 2(1)(c) or any other exemptions in clause 2 and consequently these food items must be fully labelled. However, where the food is intra company transferred, retailers may request information that may be requested by consumers.

#### 4.9.3 *Submitter comments*

The majority of submitters supported an exemption for foods that are intra-company transferred to be labelled, providing that information is made available at the point of sale. Other submitters who expressed their support for an exemption believe that the product name, warning and advisory statements and batch code/ best before dates should remain a labelling requirement. It was stated that it should be the responsibility of the parent organisation to ensure that this information is available to the consumer.

Conversely, some submitters expressed concern that an exemption would increase the scope for problems due to lack of safety information required on packages. The use of date marking was considered essential to ensure good stock control, and for recall purposes. It was suggested that food should be labelled at the point where it is packaged to ensure consumers have access to the information, indicating that up to date manuals at point of sale would be onerous to manage.

#### 4.9.4 *Proposed approach*

FSANZ's proposed approach is to maintain the *status quo*, exemption 2(1)(c) *the food is made and packaged on the premises from which it is sold* would apply to food transferred to satellite retail outlets. This exemption was devised taking into account that the purchaser can seek information regarding the food direct from the manufacturer/retailer responsible for making the food. It was considered that where a purchaser can do this, they can obtain relevant information to make an informed purchasing choice by questioning and so do not necessarily need such information provided by food labels. FSANZ considers that the labelling information of the food may not always be disseminated to satellite outlets and that for such a system to work up to date manuals at the point of sale would need to be maintained and these could be difficult to manage.

The labelling information may only be a phone call away, but that is also the case for any food sold at retail where the retailer can contact the manufacturer for further information.



To broaden the exemption to apply to food sold at satellite outlets would defeat the intention of the exemption. It is worth noting that in many cases, in particular in relation to many bakery/patisserie items, where the exemption for food *made and packaged on the premises from which it is sold* does not apply, other exemptions, such as *the food is packaged in the presence of the purchaser*, may apply.

#### **4.10 Milk Sold in Glass Bottles**

##### *4.10.1 Background*

Currently, milk sold in glass bottles is exempt from only ingredient labelling and a statement of storage conditions relevant to date marking. Therefore, the Code requires that the following be displayed on the label:

- the name of the food;
- lot identification (a lot identification can be met by date marking and supplier details);
- the name and business address of the supplier;
- an NIP; and
- a date mark.

As these products are in most cases home delivered, in these circumstances the exemption in paragraph 2(1)(f) *the food is delivered packaged, and ready for consumption, at the express order of the purchaser* may apply. If this exemption applies the bottled milk is only required to comply with the mandatory warning and advisory statements and declarations in Standard 1.2.3. This requirement would need to be met by having the declaration of ‘milk’ displayed on or in connection with the display of the food or provided to the purchaser upon request.

Even where paragraph 2(1)(f) does apply, if the manufacturer of bottled milk makes a nutrition claim, e.g. low fat milk, a nutrition information panel (NIP) is required to be displayed on or in connection with the display of the food or provided to the purchaser upon request. However, the exemption in paragraph 2(1)(f) will not apply to bottled milk in all circumstances, for example if sold from a retail outlet.

##### *4.10.2 The issue*

Milk sold in glass bottles has limited available space on the foil cap and consequently, not all the required information will fit. The labelling requirements for milk sold in glass bottles were previously considered in relation to date marking, storage conditions relevant to date marking and ingredient labelling. Other labelling exemptions including the name of the food, the name and business address of the supplier, lot identification and NIP were not considered. At initial assessment, FSANZ considered that the only problematic requirement for milk sold in glass bottles was the nutrition information panel.

At Initial Assessment, Mainland Products was the last remaining producer of milk in glass bottles in New Zealand. However, recent investigations indicate that there is no longer any milk sold in glass bottles in New Zealand.

In Australia, there is one small provider of milk in glass bottles in Western Australia that provides whole milk, skim milk and cream in a glass jar and in Tasmania there is currently one small provider of milk in glass bottles. FSANZ has been informed that both of these providers currently comply with the labelling requirements.

Therefore, at the time of this Draft Assessment, the labelling of milk sold in glass bottles no longer appears to be an issue. However for completeness the analysis of the consideration of labelling of milk bottles has been presented here.

#### *4.10.3 Submitter comments*

Submitters' views were mixed in relation to labelling requirements for milk sold in glass bottles. Some believed there should be consistency in regulation, indicating that milk sold in glass bottles should meet the same labelling requirements as milk sold in plastic bottles or other beverages sold in a glass bottle.

It was acknowledged that some producers of bottled milk currently comply with full labelling requirements by applying a hand wrap label around the bottle and believe it could be applied by machines for higher volumes. Labelling glass bottles would incur a cost, but it was acknowledged that this cost applies to any manufacturer of a packaged product.

Some submitters supported an exemption to full labelling, indicating milk suppliers have the flexibility to determine the most appropriate means of providing consumers with nutritional information. Consumers can access this information from their vendor, in the form of a pamphlet or information leaflet or by calling a toll free phone number or from information made available on a website.

#### *4.10.4 Proposed approach*

As it appears that current producers of milk sold in glass bottles in Australia have no concerns with complying with the current labelling requirements and there is no longer any milk sold in glass bottles in New Zealand, FSANZ's proposed approach is the *status quo* which is not to provide an exemption for milk sold in glass bottles.

### **4.11 Information Requirements in Subclause 2(2)**

#### *4.11.1 Background*

Subclause 2(2) in Standard 1.2.1 sets out the information requirements which apply to food for retail sale when exempt from bearing a label. In subclause 2(2), the information required relates to:

- mandatory warning and advisory statements and declarations in Standard 1.2.3 (paragraph 2(2)(a));
- directions for use and storage (where applicable)(paragraph 2(2)(b));
- nutrition labelling when nutrition claims are made (paragraph 2(2)(c));
- percentage labelling (paragraph 2(2)(d));
- country of origin labelling (paragraph 2(2)(e));
- genetically modified food (paragraph 2(2)(f));
- irradiation (paragraph 2(2)(g));

- the presence of offal, fat content in minced meat, formed and joined meat and fermented comminuted meat products (paragraph 2(2)(h));
- formed and joined fish (paragraph 2(2)(i));
- statements on the use of kava (paragraph 2(2)(j));
- advisory statements on formulated caffeinated beverages (paragraph 2(2)(k)); and
- statements on formulated supplementary sports foods (paragraph 2(2)(l)).

These information requirements were included on the basis that the availability of information at the point of sale is necessary for the protection of public health and safety and to facilitate informed choice.

Although there are some exceptions, generally, the required information can either be displayed on or in connection with the display of the food or provided to the purchaser upon request. Consequently, there is considerable flexibility where an information requirement applies.

#### *4.11.2 The issue*

There are certain requirements for unpackaged food that are not captured by the current information requirements listed in subclause 2(2) and refining the list of references in subclause 2(2) is required. For example, subclause 2(2) of Standard 1.2.1 makes two references to Standard 2.6.4 – Formulated Caffeinated Beverages, however only one reference is required that is subclause 3(5) of Standard 2.6.4. In addition, the current list is not user friendly requiring referencing to other parts of the Code. The list can therefore be simplified.

In addition, some labelling information that FSANZ considers will be useful to the consumer where the food is exempt from labelling is omitted from the list. This information includes a use-by-date where the food should be consumed before a certain date because of health or safety reasons and a name or description of the food sufficient to indicate the true nature of the food. The latter was raised as a result of the potential for unlabelled food items to be described to consumers in a way that is not in accordance with the true nature of the food.

#### *4.11.3 Submitter comments*

Of the submitters that commented on the information requirements in subclause 2(2) in Standard 1.2.1, the majority were in support of a review of the subclause.

There was general support to simplify the requirements of the Code and for further consideration to be given to the development of a general requirement, for example that all information required by the Code be provided when requested by the purchaser.

Some submitters expressed that it is unnecessarily onerous to require all the information outlined in the Code for unpackaged foods. It was stated that this may incur particular difficulties for foodservice operators who would be required to provide full nutrition information, ingredients and percentage ingredient labelling on all products in situations where sometimes the pulling together of ingredients to make meal items or foods is unlikely to have the same degree of quality control as can be obtained in a factory situation.

#### 4.11.4 Proposed approach

To make the list more user friendly, FSANZ proposes to provide the name of the Standard referenced in the information requirements in association with the Standard number. For example:

- subclauses 2(2), 3(2), 4(2) and 5(2) of Standard 1.2.3 – *Mandatory Warning and Advisory Statements and Declarations*;

In addition, the list will be refined. For example, references to subclause 3(3) and 3(4) of Standard 2.6.4 will be replaced with a reference only to subclause 3(5) of Standard 2.6.4.

Furthermore, additions to the list will be made, including:

- Standard 1.2.2 – Food Identification Requirements so that a name or description of the food sufficient to indicate the true nature of the food is displayed on or in connection with the display of the food or provided to the purchaser on request; and
- Standard 1.2.5 – Date Marking of Packaged Food so that where the food should be consumed before a certain date because of health or safety reasons, the use-by date is provided on or in connection with the display of the food or provided to the purchaser on request.

A general requirement that all the information that is required by the Code must be displayed on or in connection with the food or provided to the purchaser on request where the food is exempt from labelling was considered. While such an approach would eliminate the problem of the list of information requirements becoming excessively long with the addition of further requirements over time, this approach was considered not to be a practical solution. Such a requirement would be more onerous than the current requirement, as more information than that currently required by subclause 2(2) will need to be displayed on or in connection with the display of the food or provided to the purchaser upon request. It is not considered practical that where a food item is sold unpackaged that all information required by the Code may be provided at the point of purchase.

FSANZ is proposing the following list of information requirements where food for retail sale is exempt from bearing a label.

(2) Despite subclause (1), food for retail sale must comply with any requirements specified in –

- (a) subclauses 1(1) and (2) of Standard 1.2.2 – Food Identification Requirements; and
- (b) subclauses 2(2), 3(2), 4(2) and 5(2) of Standard 1.2.3 – Mandatory Warning and Advisory Statements; and
- (c) paragraph 2(1)(a) and subclause 2(2) of Standard 1.2.5 – Date Marking of Food; and
- (d) Standard 1.2.6 – Directions for Use and Storage; and
- (e) subclauses 4(2) and 4(3) of Standard 1.2.8 – Nutrition Information Requirements; and
- (f) subclause 2(3) of Standard 1.2.10 – Characterising Ingredients and Components of Food; and

- (g) subclauses 2(2) and 2(3) of Standard 1.2.11 – Country of Origin Requirements (Australia only); and
- (h) subclause 4(3) of Standard 1.5.2 – Food produced using Gene Technology; and
- (i) clause 6 of Standard 1.5.3 – Irradiation of Food; and
- (j) subclause 4(3) and clauses 5, 6, and 10 of Standard 2.2.1 – Meat and Meat Products; and
- (k) clause 3 of Standard 2.2.3 – Fish and Fish Products; and
- (l) subclause 3(2) of Standard 2.6.3 – Non-Alcoholic Beverages and Brewed Soft Drinks; and
- (m) subclause 3(5) of Standard 2.6.4 – Formulated Caffeinated Beverages; and
- (n) subclauses 3(1), 3(2), 3(3) and 3(4) of Standard 2.9.4 – Formulated Supplementary Sports Foods.

## 5. Food for Catering Purposes

### 5.1 Background

Foods for catering purposes<sup>1</sup> is defined in Standard 1.2.1 as *foods for use in restaurants, canteens, schools, caterers or self catering institutions, where food is offered for immediate consumption*. Consequently, food for catering purposes may either be a food ingredient, such as wheat flour or shortening, which will be used in the manufacture of another food, or a fully prepared food product, such as a baked dessert or a bread roll, which requires little or no preparation prior to food service. Food for catering purposes is likely to be supplied in bulk to the food service sector and may be packaged or unpackaged depending on the nature of the food.

In the context of clause 2 in Standard 1.2.1, food for catering purposes, unless otherwise exempt, is required to bear a label setting out all the information prescribed in the Code.

Since the Code came into effect, FSANZ has been made aware of a number of problems associated with the application of the clause 2 requirements in Standard 1.2.1 as they apply to food for catering purposes. There are several issues, which have been identified as requiring further consideration in relation to food for catering purposes. These issues include:

- the definition of food for catering purposes;
- the requirement for food for catering purposes to bear a label containing the information prescribed in the Code;
- the appropriateness of the exemptions in subclause 2(1) which apply to food for catering purposes; and
- the appropriateness of the information requirements in subclause 2(2) which apply to food for catering purposes when exempt from labelling (e.g. allergen labelling).

Clause 2 of Standard 1.2.1 was originally drafted in the context of food for retail sale. Given, the significant variation in the nature of food for catering purposes, the labelling requirements of foods for catering purposes will be considered in a separate clause to that of food for retail sale. The purpose of this is to allow more relevant labelling requirements for food for catering purposes.

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<sup>1</sup> While Standard 1.2.1 uses the plural ‘foods for catering purposes’, it is intended in this paper to use the term singularly i.e. ‘food for catering purposes’, other than when quoting the requirements of the Standard.

## 5.2 The Definition of ‘Food for Catering Purposes’

### 5.2.1 Background

As mentioned the current definition of food for catering purposes in the Code is *those foods for use in restaurants, canteens, schools, caterers or self catering institutions, where food is offered for immediate consumption*

Codex contains a definition of food for catering purposes that is very similar to but different from the definition in clause 2 in Standard 1.2.1. The Codex definition is *those foods for use in restaurants, canteens, schools, hospitals and similar institutions where food is offered for immediate consumption*.

### 5.2.2 The issue

There has been some confusion as to whether food supplied to a hospital, restaurant or another institution is considered ‘food for catering purposes’ or ‘food not for retail sale’ and consequently there has been confusion about which labelling requirements apply. Some consider that ‘food for catering purposes’ is food provided to a patient or a customer in a hospital, restaurant or other institution, whereas, the food in these circumstances is in fact ‘food for retail sale’. The lack of clarity in the current definition of food for catering purposes in Standard 1.2.1, in part, contributes to the confusion regarding the application of the labelling requirements.

When considering the definition of food for catering purposes, it is important to consider the definition of food for retail sale discussed in section 4.2, as both these definitions impact on where a food fits within the food transaction chain i.e. whether it is considered to be food for retail sale, food for catering purposes or food not for retail sale and consequently which labelling requirements apply.

### 5.2.3 Submitter comments

The majority of submissions received were in support of the proposed definition outlined in the Initial Assessment Report. It was suggested that it is important to clarify the current regulations to increase understanding of the labelling requirements for both catering organisations and the manufacturers who supply food to these organisations.

Although it was acknowledged that there was some confusion surrounding the term ‘catering’, some submitters doubted that the proposed amendments to the current definition would provide clarity in the Standard.

### 5.2.4 Proposed approach

In reviewing the definition of food for catering purposes, it is not FSANZ’s intention to remove the requirement for food for catering purposes to be labelled. Therefore, FSANZ considers it necessary to amend the current definition of food for catering purposes to provide greater clarity and certainty and maintain the current level of information provision prescribed in the Code.

FSANZ proposes the following definition as suggested in the Initial Assessment Report.

*food for catering purposes means food supplied to catering establishments, restaurants, canteens, schools, hospitals and institutions where food is prepared or offered for immediate consumption.*

This definition aligns the Code with the Codex definition of food for catering purposes. The new definition would replace the word ‘use’ with the word ‘supplied’ as this will make it clearer that food for catering purposes applies to the sale of food to restaurants and other institutions and to caterers who subsequently prepare and/or serve food for immediate consumption.

FSANZ considers it necessary to include in the proposed definition a reference to food being ‘prepared or offered’ for immediate consumption rather than being ‘offered’ for immediate consumption, as reflected in the current definition. This would capture the situation where food may be prepared on a site other than where it is ultimately offered for immediate consumption. For example, where food is sold to a catering establishment who prepares the food then sells it to another catering institution where the food is offered for immediate consumption, both these transactions are considered to be food for catering purposes.

### **5.3 Requirement to Bear a Label Containing Certain Prescribed Information and Other Information in Commercial Documentation**

#### *5.3.1 Background*

Unless exempt, food for catering purposes must bear a label setting out all the information prescribed in the Code. In practice this means that all the required information must be on a label firmly attached to the package containing food for catering purposes. Consequently unless an exemption applies, food for catering purposes must be labelled with the:

- name of the food;
- lot identification;
- supplier details;
- mandatory warning and advisory statements and declarations in Standard 1.2.3;
- a list of ingredients;
- date marking information as required by Standard 1.2.5;
- directions for use and storage where required by Standard 1.2.6;
- nutrition labelling (unless specifically exempt); and
- country of origin (in Australia only).

There are also additional labelling requirements that may apply to food for catering purposes, for example, if the food or ingredients in the food are genetically modified or have been irradiated.

#### *5.3.2 The issue*

Unlike the requirements in clauses 3 & 4 in Standard 1.2.1, clause 2 does not currently provide an option for any prescribed information to be provided in accompanying documentation. Taking into account the significant variation in the nature of food for catering purposes to that of food for retail sale, FSANZ considers that it is possible to allow greater flexibility in the means by which certain information is provided while still ensuring that all required information is available.

### 5.3.3 *Submitter comments*

The majority of submitters who commented on this issue supported the proposed amendments, to only require information necessary for public health and safety on a label. It was stated that apart from country of origin information, the proposed mandatory information requirements are consistent with this criteria. It was stated, that it is not realistic to provide full labelling, as packaging is discarded or not visible when dispensing the product. It was highlighted that the manufacturer needs to provide mandatory nutrition and ingredient information in order for caterers to comply with their labelling responsibilities.

Some submitters suggested that labelling requirements for foods for catering purposes are best covered under clause 3 and 4 of Standard 1.2.1, similar to products not for retail sale.

Other submitters were not in support of any measure that removes the requirement for prescribed information to be on labels of packaged food for catering purposes. It was suggested that labelling through the means of commercial documentation should be considered in addition to package labelling, not as a replacement.

### 5.3.4 *Proposed approach*

FSANZ proposes that the label on food for catering purposes include the following prescribed information:

- The name of the food
- Lot identification
- Mandatory warning and advisory statements and declarations
- Date marking
- Directions for use and storage
- Country of origin labelling (in Australia only)

The name of the food, lot identification and supplier details is the minimum information considered necessary to clearly identify the food and to facilitate a food recall should one be necessary. These are the pieces of information currently required by clause 3 in Standard 1.2.1 to be on the label of food not for retail sale, not for catering purposes and food supplied as an intra-company transfer. However, FSANZ considers supplier details may be provided in documentation accompanying the food.

FSANZ considers it necessary to provide date marking and directions for use and storage on the label of food for catering purposes. Catering establishments need to know how to treat and store foods particularly as they may store foods for extended periods. In addition, the ability of the restaurateur or caterer to provide mandatory warning and advisory statements on request can be rendered more difficult if foods sold to them are not labelled with this information. Hence, FSANZ considers it necessary that mandatory warning and advisory statements and declarations be provided on the label of food for catering purposes. In Australia, food for catering purposes is required to include country of origin information on the label.

FSANZ proposes that any remaining prescribed information, such as supplier details, ingredient labelling and nutrition labelling, as well as any other information required by the Code, be permitted either on a label or in some other documentation.



Further discussion on supplier details is provided at section 5.4 and further discussion on what documentation must be supplied is provided at section 5.7.

This approach offers greater flexibility for manufacturers and suppliers of food for catering purposes without compromising or diminishing the level of information being provided between manufacturers and suppliers of food for catering purposes and the end user i.e. the caterer.

## **5.4 Supplier Details**

### *5.4.1 Background*

In Proposal P246 – Major omnibus amendments, the former ANZFA outlined a problem in relation to the labelling of imported bulk foods not intended for retail sale with ‘supplier details’. In certain circumstances, the ‘supplier details’ i.e. the importer details for imported bulk foods may not be known at the time of export. The manufacturer of the foods in another country does not always know the importer and is therefore not in a position to provide information such as the name and address details in Australia or New Zealand of the supplier when assembling a load for shipping. As a consequence, clause 3 in Standard 1.2.1 was amended to permit the importer details to be provided in documentation accompanying that food.

Subclause 3(2) of Standard 1.2.1 states that *the information prescribed in clause 3 of Standard 1.2.2 (that is the name and address of the supplier) is not required to be on the label on a food where that information is provided in documentation accompanying that food.* ‘Supplier’ is defined in Standard 1.1.1 to include the packer, manufacturer, vendor or importer of the food in question.

### *5.4.2 The issue*

When considering the labelling requirements for food for catering purposes and proposing that some information be prescribed on the label and yet allowing other information to be provided in documentation accompanying the food, it is necessary to consider whether supplier details may be provided in accompanying documentation as is the case in relation to food not for retail sale under clause 3 of Standard 1.2.1.

### *5.4.3 Submitter comments*

There was general support to provide importer details in accompanying documentation. However, one submitter stated that importer details are covered under the requirements for supplier details and therefore should be required on the label.

### *5.4.4 Proposed approach*

FSANZ considers the same principle should apply to the labelling of supplier details for bulk food for catering purposes as applies to food not for retail sale. Consequently, it is proposed that supplier details may be provided in accompanying documentation for food for catering purposes. This has been discussed with AQIS who are in support of such an approach. Further discussion on the provision of supplier details is provided at section 5.7.

## 5.5 Exemptions to Apply to Food for Catering Purposes

### 5.5.1 Background

Subclause 2(1) in Standard 1.2.1 contains a number of exemptions from labelling for food for catering purposes and food for retail sale. The specific exemptions are where:

- the food is other than in a package (paragraph 2(1)(a));
- the food is in inner packages not designed for sale without an outer package, other than individual portion packs with a surface area no less than 30 cm<sup>2</sup>, which must bear a label containing a declaration of certain substances in accordance with clause 4 of Standard 1.2.3 (paragraph 2(1)(b));
- the food is made and packaged on the premises from which it is sold (paragraph 2(1)(c));
- the food is packaged in the presence of the purchaser (paragraph 2(1)(d));
- the food is whole or cut fresh fruit or vegetables, except sprouting seeds or similar products, in packages that do not obscure the nature or quality of the fruit or vegetables (paragraph 2(1)(e));
- the food is delivered packaged, and ready for consumption, at the express order of the purchaser (paragraph 2(1)(f)); and
- the food is sold at a fund raising event (paragraph 2(1)(g)).

Currently, Standard 1.1.1 defines package as *any container or wrapper in or by which food intended for sale is wholly or partly encased, covered, enclosed, contained or packaged, and in the case of food carried or sold or intended to be carried and in more than one package, includes every such package, but does not include –*

- (a) *bulk cargo containers; or*
- (b) *pallet overwraps; or*
- (c) *crates and packages that do not obscure labels on the food; or*
- (d) *transportation vehicles.*

### 5.5.2 The issue

During the development of Standard 1.2.1, it was considered that where a consumer could inspect the food prior to purchase and could seek accurate information regarding the food directly from the persons responsible for making the food, it was not necessary to require information to be provided on a label. These exemptions were initially developed in the context of food for retail sale. However, currently clause 2 makes no distinction between these two food categories for the purposes of the exemptions. Consequently, the current wording of the exemptions is problematic when considered in relation to food for catering purposes.

By way of example, it is possible that a reasonable volume of food for catering purposes could be exempt from labelling by application of certain exemptions. Exemptions, such as those in paragraphs 2(1)(b), 2(1)(d) and 2(1)(g) appear to be specific to food for retail sale and do not appear to be relevant to food for catering purposes. It is important to note, however, that where an exemption does apply, there are currently information requirements in subclause 2(2), such as the mandatory warning and advisory statements and declarations in Standard 1.2.3, which must be complied with.

In addition, the broad definition of ‘package’ in Standard 1.1.1 and its interaction with the definition of ‘food for catering purposes’ has resulted in a number of enquiries about the labelling of food for catering purposes in certain circumstances. Food service operators have sought advice regarding the labelling of trolleys and similar equipment used to transport prepared but separately packaged and/or labelled meals within and possibly between hospitals, aged care facilities and other institutions and onto aircraft; and about the labelling of other bulk packages of food for catering purposes (such as gastronome trays) used to contain and carry large quantities of prepared food for food service. Whether an exemption should apply in these circumstances requires consideration.

### 5.5.3 *Submitter comments*

The Initial Assessment Report suggested retaining exemptions clauses (a) *the food is other than in a package* and (e) *the food is whole or cut fresh fruit and vegetables, except sprouting seeds or similar products, in packages that do not obscure the nature or quality of the fruits and vegetables*. Several submitters support the proposal to amend the exemptions in subclause 2(1) of Standard 1.2.1, with the proposed exemptions to be retained for ‘food for catering purposes’. There was general support to remove clauses that serve no useful purpose for the customer, caterer or supplier. However one submitter did express concern surrounding the removal of any exemption clauses, in particular the removal of 2(1)(c) *the food is made and packaged on the premises from which it is sold*.

There was general support for an exemption for gastronome trays or similar packages to bear full labelling. However, it was highlighted that gastronome trays are routinely labelled in hospital foodservices and should continue to be required to do so to identify the food and its use by and storage conditions. It was acknowledged that ingredient and allergen information should be accessible on site and that full labelling should be required if the food package is sold to an outside organisation such as another hospital or airline. It was suggested that there is an increased use of pre-packed meals in the catering sector with the ability for these to be transferred between sites, and it was indicated that these packages should be treated similarly to gastronome trays.

### 5.5.4 *Proposed approach*

In relation to food for catering purposes, FSANZ proposes to remove the following exemptions because they are either not relevant or are not appropriate for food for catering purposes:

- the food is in inner packages not designed for sale without an outer package, other than individual portion packs with a surface area of no less than 30 cm<sup>2</sup>, which must bear a label containing a declaration of certain substances in accordance with clause 4 of Standard 1.2.3 (paragraph 2(1)(b));
- the food is made and packaged on the premises from which it is sold (paragraph 2(1)(c));
- the food is packaged in the presence of the purchaser (paragraph 2(1)(d));
- the food is delivered packaged, and ready for consumption, at the express order of the purchaser (paragraph 2(1)(f)); and
- the food is sold at a fund raising event (paragraph 2(1)(g)).

Therefore, the following two exemptions will be retained for food for catering purposes:

- the food is other than in a package; and
- the food is whole or cut fresh fruit and vegetables, except sprouting seeds or similar products, in packages that do not obscure the nature or quality of the fruit or vegetables.

At Initial Assessment, FSANZ reviewed the definition of ‘package’ in relation to the circumstance where prepared food for catering purposes is transported on a trolley or similar mobile unit and considered that a trolley or similar mobile unit could potentially constitute a ‘transportation vehicle’. ‘Transportation vehicles’ are specifically excluded from the definition of ‘package’ in Standard 1.1.1 and as such the trolley or similar mobile unit would not be required to be labelled. Consequently, FSANZ is of the view that in this particular case it is not necessary to develop an exemption from labelling for food trolleys or similar mobile units.

The labelling of gastronome trays was raised as an issue in the Initial Assessment Report however FSANZ does not intend to provide an exemption for these circumstances. FSANZ is aware that a gastronome tray is essentially a multi-use stainless steel container which may or may not be covered and which is intended for food service purposes and although technically a ‘package’ is not intended to be taken away by the consumer at the point of retail sale. In most cases food in gastronome trays are transferred within organisations and as such are not food for catering purposes and do not require full labelling. The labelling of food sold in gastronome trays only requires consideration where the food is sold to a catering establishment in that form, for example to an airline or hospital. In these situations, it is particularly important that the information considered necessary for the protection of public health and safety be provided on a label attached to the food. To allow an exemption for gastronome trays would be treating these packages differently to any other package. Given gastronome trays are able to be labelled and in many cases are currently labelled, such an exemption does not appear to be justified.

At Initial Assessment, FSANZ considered the relevance of the inclusion of an exemption similar to that included in paragraph 3(1)(f) in Standard 1.2.1. This exemption currently applies only to food not for retail sale, food not for catering purposes and food supplied as an intra-company transfer. Paragraphs 3(1)(f) exempts ‘transportation outers’ from labelling where the information otherwise required on the transportation outer is clearly discernible through the transportation outer on the labels of the packages within. It was considered that if such an exemption was extended to food for catering purposes, a bulk package of food for catering purposes packaged in a transparent transportation outer would not need to bear a label on the outer, providing the required information was discernible through the transportation outer on the packages within. Further consideration of the exemption and its interactions with the definition of package has been undertaken and FSANZ is of the view that such an exemption is not required.

The definition of package in Standard 1.1.1 excludes crates and packages which do not obscure labels on the food. Therefore, a transparent transportation outer is not a package and therefore not required to be labelled, regardless of the exemption. Consequently, FSANZ considers that it is not necessary to have a specific exemption relating to transparent transportation outers, and therefore there is no need to include such an exemption for food for catering purposes. However, the removal of the exemption in clause 3 of Standard 1.2.1 relating to transparent transportation outers is outside the scope of Proposal P272 and further consideration to this may be provided at a later stage, possibly as part of an omnibus proposal.

In summary, it is proposed that the exemptions from labelling in subclause 2(1) would be limited to when food for catering purposes is:

- other than in a package (currently paragraph 2(1)(a));
- whole or cut fresh fruit or vegetables, except sprouting seeds or similar products, in packages that do not obscure the nature or quality of the fruit or vegetables (currently paragraph 2(1)(e)).

Where any exemption from labelling applies to food for catering purposes, FSANZ considers that certain information requirements are still necessary. However, the current information requirements as they relate to food for catering purposes are also being considered in this review and a discussion regarding these requirements is set out in section 5.6 below.

## **5.6 Information Requirements to Apply to Food for Catering Purposes**

### *5.6.1 Background*

Subclause 2(2) in Standard 1.2.1 sets out the information requirements, which apply both to food for retail sale and to food for catering purposes when exempt from bearing a label. In subclause 2(2), the information requirements relate to:

- mandatory warning and advisory statements and declarations in Standard 1.2.3 (paragraph 2(2)(a));
- directions for use and storage (where applicable)(paragraph 2(2)(b));
- nutrition labelling when nutrition claims are made (paragraph 2(2)(c));
- percentage labelling (paragraph 2(2)(d));
- country of origin labelling (paragraph 2(2)(e));
- genetically modified food (paragraph 2(2)(f));
- irradiation (paragraph 2(2)(g));
- the presence of offal, fat content in minced meat, formed and joined meat and fermented comminuted meat products (paragraph 2(2)(h));
- formed and joined fish (paragraph 2(2)(i));
- statements on the use of kava (paragraph 2(2)(j));
- advisory statements on formulated caffeinated beverages (paragraph 2(2)(k)); and
- statements on formulated supplementary sports foods (paragraph 2(2)(l)).

Although there are some exceptions, generally the required information can either be displayed on or in connection with the display of the food or provided to the purchaser upon request. Consequently, there is considerable flexibility provided where an information requirement applies to a food otherwise exempt from bearing a label.

### *5.6.2 The issue*

In most cases, the information requirements in subclause 2(2) of Standard 1.2.1 are specific to food for retail sale. During the development of Standard 1.2.1, it was considered that where a consumer could inspect the food prior to purchase and could seek accurate information regarding the food directly from the persons responsible for making the food, it was not necessary to require information to be provided on a label.

In relation to food for catering purposes, many of the information requirements in subclause 2(2) are not relevant. For example, food for catering purposes is not currently required to be percentage labelled, so the information requirement in subclause 2(2)(d) is superfluous.

### 5.6.3 *Submitter comments*

All submitters who commented on this, supported amending to the current information requirements in subclause 2(2) to better reflect the information needs of caterers and food service operators when preparing and serving food. Several submitters also support further consideration for a 'general requirement' for example that all information required by the Code be provided when requested by the caterer. However, one submitter agreed that information necessary for public health and safety should be provided. A further submitter noted that the onus should not be placed on the caterer to request information which is particularly relevant where there has been a change in formulation or source of ingredients such as an allergen.

### 5.6.4 *Proposed approach*

There will be very limited circumstances where food for catering purposes would be exempt from bearing a label and where the information requirements in subclause 2(2) would apply. Only two exemptions are now proposed to apply to food for catering purposes. That is:

- (a) other than in a package; or
- (b) whole or cut fresh fruit or vegetables, except sprouting seeds or similar products, in packages that do not obscure the nature or quality of the fruit or vegetables.

Carcasses of meat are likely to be exempt from labelling under paragraph 2(1)(a) when provided as food for catering purposes. In addition, whole or cut fresh fruit and vegetables may be exempt from labelling under paragraph 2(1)(b).

The information needs of food handlers or food service operators are likely to vary depending on the nature of the food and whether the food will be subject to further handling or processing and whether there are other systems in place for accessing information which may ultimately be requested by either enforcement agencies or by the final consumer.

Furthermore, there may be other provisions, which require food businesses to have adequate information systems in place for traceability purposes. For example, in Australia, in accordance with subclause 5(2) in Standard 3.2.2 - Food safety practices and general requirements, where requested by an authorised officer, food businesses must be able to provide the following information in relation to any food on the premises:

- supplier details; and
- the name of the food.

Therefore, when food for catering purposes is exempt from bearing a label, it does not seem relevant to retain the information requirements as currently specified in subclause 2(2), as these information requirements do not include the name of the food, supplier details or date marking, pieces of information that would appear to be necessary for the appropriate handling of food for catering purposes or to facilitate a food recall, should one be required.

Therefore, FSANZ proposes that where food for catering purposes is exempt from bearing a label, all information otherwise required on the label of food for catering purposes may be provided in accompanying documentation to the food and the information must be traceable to the food (further discussion on commercial documentation is provided at section 5.7). In addition to this, FSANZ proposes that supplier details be provided in accompanying documentation to assist in traceability and to ensure this information is available if requested by an authorised officer in Australia under subclause 5(2) of Standard 3.2.2 – Food Safety Practices and General Requirements. In summary, information required to be provided in accompanying documentation includes:

- The name of the food
- Lot identification
- Supplier details
- Mandatory warning and advisory statements and declarations
- Date marking
- Directions for use and storage
- Country of origin labelling (in Australia only)

In addition, where a purchaser or relevant authority has so requested, food which is for catering purposes must be accompanied by sufficient information in relation to that food to enable the purchaser to comply with the:

- compositional requirements of this Code; and
- labelling or other declaration requirements of this Code.

This is similar to the approach taken in clause 4 in Standard 1.2.1 in relation to food not for retail sale, not for catering purposes and food supplied as an intra-company transfer.

FSANZ's proposed approach where the food is exempt from labelling ensures that relevant information for food handlers and food service operators is provided. In addition, mandatory warning and advisory statements will be provided ensuring the restaurateur or caterer has the necessary information to provide a customer if requested. Furthermore, an advantage of this approach is that information provided is not limited to the information required in accompanied documentation but further information that may be relevant to food handlers and food service operators and to the ultimate consumer, must be provided when requested.

## **5.7 Commercial Documentation**

### *5.7.1 Background*

Allowing certain prescribed information to be permitted in written commercial documentation raises two additional issues. Firstly, what constitutes commercial documentation and secondly, what relationship will exist between the food and the commercial documentation.

Currently, under clause 3 of Standard 1.2.1, information prescribed in clause 3 of Standard 1.2.2 that is the name and address of the supplier, is not required to be on the label on a food not for retail sale where that information is provided in documentation accompanying that food.

The Code remains silent on what constitutes this commercial documentation and the relationship that exists between the food and the commercial documentation, only that it must accompany the food.

#### *5.7.2 The issue*

There is currently no universal definition or descriptor of accompanying documentation. In the course of business, written commercial documents may be provided either electronically or in hard copy. Consequently, written commercial documents could potentially be provided to the purchaser prior to delivery, at the time of delivery or possibly even after delivery. In addition, it is possible that information on a manufacturer's website may be considered by some to be commercial documentation.

#### *5.7.3 Submitter comments*

Submitters' views were mixed in relation to what constitutes commercial documentation, some highlighting that the term and the means of document delivery should be clearly defined. Some submitters believe that information provided via electronic/web based systems, will allow industry to be more responsive to consumer needs, others indicated that the provision of information on a website only is not suitable and additional documentation should be provided.

#### *5.7.4 Proposed approach*

The intention of modifying the current labelling requirements is to provide greater flexibility for the manufacturers and suppliers of food for catering purposes without diminishing the level of information provided and without compromising public health and safety.

The proposed changes ensure that information necessary for public health and safety is required on the label of food for catering purposes. This includes:

- The name of the food
- Lot identification
- Mandatory warning and advisory statements and declarations
- Date marking
- Directions for use and storage
- Country of origin labelling (in Australia only)

Other information including supplier details, ingredient labelling, nutrition labelling and other information required by the Code may be provided in documentation.

The provision of supplier details in documentation is to assist importers of food for catering purposes (refer to section 5.4). As supplier details may be needed in the rare case of a recall, FSANZ proposes that this information be provided in documentation accompanying the food and that this information be provided at each delivery. However, it should be noted that a supplier may choose to place this information on the label.



On the other hand, other information required by the Code that is not required on the label of food for catering purposes including ingredient labelling and nutrition labelling does not have to accompany the food at each delivery but rather need only be provided once with the sale of several batches of the same food item. Suppliers may choose to provide this information electronically, in written documentation or again if they wish this information may be placed on the label. This provides suppliers of food for catering purposes greater flexibility while still ensuring caterers have sufficient information to meet the requirements of the Code.

Further guidance will be provided in a user guide on what may constitute documentation in these circumstances, and how to provide a clear link between the commercial documentation and the food for traceability purposes.

## **6. Packaged Meals Provided by Delivered Meal Organisations**

### **6.1 Background**

Throughout Australia and New Zealand, DMOs supply a wide variety of packaged meals to the elderly and frail; convalescing and chronically ill, and those with disabilities. Although commercial operators and some private facilities produce some DMO meals, meals are usually prepared in hospital or community kitchens and delivered by volunteers affiliated with particular DMOs, such as the Red Cross or Meals on Wheels (MoWs).

#### *6.1.1 Delivered Meal Organisations in Australia*

There are currently over 900 DMOs in Australia. Most of these employ staff to manage the production and delivery of packaged meals, but also rely on a large number of volunteer staff to successfully run the service. In Australia, in 1999-2000 there were over 68 000 clients receiving meals in their home each month and over 36 000 meals on average were delivered daily<sup>2</sup>, usually by volunteers.

In Australia, a large percentage of delivered meals are prepared in hospital kitchens. Kitchens catering exclusively to DMOs are the next largest provider of delivered meals. In total, the majority of all delivered meals in Australia are produced in recognised commercial establishments. FSANZ is aware that a number of rural DMOs obtain their meals from small rural hospitals, locals pubs or road houses.

#### *6.1.2 Delivered Meal Organisations in New Zealand*

The New Zealand Ministry of Health administers a National Service Specification for the Meals on Wheels (MoWs) service throughout the country. Meals on Wheels providers are required to comply with this specification. The specification includes various aspects of the MoWs service including processes to be used in the preparation of the meals, quality requirements, safety and efficacy and reporting requirements. Meals can be delivered hot (main meal), frozen (in rural areas only) or chilled (dessert only). Although there is no direct reference to the labelling of meals, 'guidance to clients regarding the storage, defrosting and cooking of frozen meals' and instructions for 'reheating methods used by the individual client' should be provided.

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<sup>2</sup> Home and Community Care (HACC): HACC Service Provision 1999 – 2000

There is no umbrella organisation for the Meals on Wheels service in New Zealand. There are a large number of service providers including hospital catering companies, hospital kitchens, rest homes, hotels, and Presbyterian Support. Volunteers organised by organisations such as the New Zealand Red Cross and Age Concern deliver the meals. During 2002, the Red Cross in New Zealand delivered 1.2 million meals.

## 6.2 Current Requirements for Food for Retail Sale

Under the Model Food Act in Australia and the New Zealand *Food Act 1981*, the term ‘sell’ is broadly defined and includes *supply under a contract together with accommodation, service or entertainment, in consideration of an inclusive charge for the food supplied and the accommodation, service or entertainment*. Reading the broad definition of ‘sell’ together with the definition of ‘retail sale’ in Standard 1.2.1, packaged meals provided by DMOs are considered to be ‘food for retail sale’ and therefore fall within the scope of the requirements in clause 2 in Standard 1.2.1.

Currently, food for retail sale, unless otherwise exempt, is required to bear a label setting out all the information prescribed in the Code. This means that food for retail sale must bear a label which includes the following prescribed information:

- name of the food;
- lot identification;
- supplier details;
- mandatory warning and advisory statements and declarations in Standard 1.2.3;
- a list of ingredients;
- date marking information in accordance with Standard 1.2.5;
- directions for use and storage (where required for health & safety reasons);
- nutrition labelling (unless specifically exempt);
- percentage labelling; and
- country of origin (in Australia only).

To determine if a food for retail sale is exempt from labelling, it is important to consider the specific exemptions in subclause 2(1) in Standard 1.2.1. The specific exemptions are where:

- the food is other than in a package (paragraph 2(1)(a));
- the food is in inner packages not designed for sale without an outer package, other than individual portion packs with a surface area no less than 30 cm<sup>2</sup>, which must bear a label containing a declaration of certain substances in accordance with clause 4 of Standard 1.2.3 (paragraph 2(1)(b));
- the food is made and packaged on the premises from which it is sold (paragraph 2(1)(c));
- the food is packaged in the presence of the purchaser (paragraph 2 (1)(d));
- the food is whole or cut fresh fruit or vegetables, except sprouting seeds or similar products, in packages that do not obscure the nature or quality of the fruit or vegetables (paragraph 2(1)(e));
- the food is delivered packaged, and ready for consumption, at the express order of the purchaser (paragraph 2(1)(f)); and
- the food is sold at a fund raising event (paragraph 2(1)(g)).

### 6.2.1 *The regulatory problem*

Since the Code came into effect in December 2002, FSANZ has received a number of telephone and written enquiries from DMOs, predominantly in New South Wales, seeking clarification and confirmation of their obligations regarding the labelling of packaged delivered meals. There are several issues, which have been identified as requiring further consideration in relation to food provided by DMOs. These issues include:

- the current labelling requirements for packaged meals provided by DMOs;
- the appropriateness and application of the exemptions in subclause 2(1) which apply to packaged meals provided by DMOs;
- nutrition labelling and health claims; and
- the appropriateness of country of origin labelling for meals provided by DMOs.

There have been several interpretation issues related to subclause 2(1)(f) of Standard 1.2.1 *the food is delivered packaged and ready for consumption at the express order of the purchaser* and an ongoing reliance on this exemption in this subclause will continue to create uncertainty of the labelling requirements of DMOs.

An inconsistent interpretation and application of the requirements in Standard 1.2.1 may compel DMOs to fully label all packaged meals to prevent any inadvertent omissions or possible enforcement action may result from a failure to correctly label packaged meals not covered by the exemption in paragraph 2(1)(f). This may result in significant price increases for the recipients of the service or a reduction in the level of service provided or both. As 'not for profit' enterprises, DMOs cannot afford to pass on the full costs of labelling to recipients of the service in the circumstances where the current exemption does not apply.

Consequently, the current requirements in clause 2 in Standard 1.2.1 should be reviewed to ensure that the information needs of the recipients of the service are met and that DMOs continue to provide low cost, nutritious and safe meals.

## 6.3 **Relevant Issues**

### 6.3.1 *Current labelling practices*

#### 6.3.1.1 Delivered Meal Organisations in Australia

From the submissions to the Initial Assessment Report and from information collected via labelling surveys undertaken in various States in Australia, it is clear that there is diversity in the provision of services, including labelling practices, amongst DMOs.

It is evident that some DMOs provide comprehensive labelling on meals provided to consumers, whereas others provide no labelling at all. A survey undertaken by the NSW Meals on Wheels Association (the Association) in 2003 (n= 114), revealed that most NSW Meals on Wheels services have some form of labelling. The Association recommends five key labelling components on delivered meals; the name of the meal, general components of ingredients of the meal, use by date, name and address of the kitchen that has produced the meal and instructions on the correct heating/storage of the meal. However, of these key labelling components, only the use by date, the name of the meal and heating and storage instructions were included by more than half of the services that completed the survey.

It was stated in submissions that some DMOs label meals, with directions for use and storage for hot and frozen meals. It was stated that labels for hot delivered meals include the day the meal was produced, also instructions for consumers to 'eat now'. Some providers indicated that frozen meals are labelled with storage and handling/preparation information including thawing and reheating instructions (oven and microwave), the use-by-date and also the content or name of the meal.

Delivered Meals Organisations currently use a variety of methods to ensure the correct meal is delivered to the client. Some of these strategies include:

- writing client's name and special request on the box lid and filling the order from the lid;
- filling the order from a running sheet of clients' information; and
- producing in-house labels of client name, food name, allergens contained etc that go on the lid.

The majority of DMOs identify clients' special dietary needs, including allergies and food preferences at an assessment for eligibility, although it was acknowledged that this information may not always be clearly outlined on the label of the delivered meal.

#### 6.3.1.2 Delivered Meal Organisations in New Zealand

There are no national data available on current labelling practices of Meals on Wheels in NZ. However from some targeted interviews carried out by FSANZ in 2006, it appears there is a range of labelling practices. Food for people on special diets are labelled on the meal e.g. diabetic, soft food, allergy and this is the most common information put on meals. Some providers put a date stamp, client's name or some reference to reheating (for example 'not suitable for reheating in microwave'). It is evident that Meals on Wheels providers tend to provide clients with written information on use and storage of the meals when they join the service. In addition, any foods clients wish to avoid including allergenic foods, are noted when the client joins the service and it is acknowledged that some service providers also supply the clients with a copy of the menu.

#### 6.3.1.3 Types of packaged meals delivered by DMOs

The types of packaged meals provided by DMOs vary between services. Meals can be delivered to clients hot and ready for consumption, or chilled or frozen requiring reheating. Delivered meals usually consist of a soup; a main meal such as meat or fish and vegetables; and fruit or dessert. Main meals are usually packed in foil packs with cardboard lids and desserts and tinned fruit may be packed in round plastic containers with soups in styrofoam cups. Beverages, such as juice or cordial, are provided in single use retail packs such as plastic containers or 'tetra paks'. FSANZ is aware that some DMOs also provide their clients with an evening meal pack (sandwiches) and breakfast packs (bread, cereal, milk, jam, butter).

#### 6.3.1.4 Food Safety Programs for Food Service to Vulnerable Persons

FSANZ prepared Proposal P288 – Food Safety Programs for Food Service to Vulnerable Populations in response to a decision of the Australian and New Zealand Food Regulations Ministerial Council (Ministerial Council), to mandate Standard 3.2.1 – Food Safety Programs to food service, whereby potentially hazardous food is served to vulnerable populations.

The Ministers' decision was partly based on the National Validation Project which concluded that food service, where potentially hazardous food is served to vulnerable populations was a potential high-risk sector.

Standard 3.3.1 – Food Safety Programs for Food Service to Vulnerable Persons, which applies in Australia only, was gazetted on October 5, 2006. This new Standard requires delivered meals organisations (DMOs) to comply with Standard 3.2.1 – Food Safety Programs. There is a two-year implementation period for this Standard which allows DMOs time to prepare food safety programs. The proposed labelling requirements for delivered meals outlined in Proposal P272 are separate to the requirements of Standard 3.3.1 and apply in both Australia and New Zealand

The Australian Department of Health and Ageing has been developing 'tools' to assist food businesses implement food safety programs. The DMO food safety program tool is in its final stages of completion and will provide DMOs with assistance and guidance to develop food safety programs.

Part of the process of developing a food safety program involves DMOs assessing the hazards that arise in their food handling processes. Depending on the nature of food preparation and the clients of a DMO, a hazard that may arise could involve clients consuming a meal with an ingredient that triggers an allergic reaction. A control measure for this may be to provide allergen labelling. This may not be applicable for all DMOs, depending on their processes however it means the proposed allergen labelling requirement could be used as a control to address a hazard.

## **6.4 Purpose of Labelling**

### *6.4.1 The purpose of labelling*

Generally, the information required to be included on a label will address one or more of the following:

- a demonstrated risk to public health and safety; and/or
- a need to ensure the adequacy of information to facilitate informed choice; and/or
- the potential for misleading or deceptive conduct.

As outlined in section 6.2 of this Report, there are several pieces of prescribed information that must be included on a label. Not all of these pieces of prescribed information are linked to the protection of public health and safety.

### *6.4.2 Public health and safety*

The following pieces of prescribed information are generally regarded as necessary on packaged food to clearly identify a food and to facilitate a food recall should one be required:

- the name of the food;
- lot identification; and
- supplier details.

The following pieces of prescribed information are generally considered necessary to address an identified public health and safety risk:

- the mandatory warning and advisory statements and declarations in Standard 1.2.3;
- date marking information in accordance with Standard 1.2.5; and
- directions for use and storage where required by Standard 1.2.6 for the protection of public health and safety.

## **6.5 Labelling Requirements for Delivered Meal Organisations**

### *6.5.1 The issue*

Packaged meals prepared by DMOs are considered to be ‘food for retail sale’ and therefore fall within the scope of clause 2 of Standard 1.2.1. Food for retail sale, unless exempt, is required to bear a label setting out all the information prescribed in the Code.

Since the transition to the Code, FSANZ has advised that with some exceptions, packaged meals provided by DMOs are generally considered to be exempt from labelling under paragraph 2(1)(f) of Standard 1.2.1 as *the food is delivered packaged and ready for consumption at the express order of the purchaser*. Other delivered food provided unpackaged, for example loose fruit, is considered exempt from labelling under paragraph 2(1)(a) of Standard 1.2.1 as the food *is other than in a package*.

Where these exemptions apply to delivered meals, DMOs must still comply with the information requirements in subclause 2(2) in Standard 1.2.1. In the context of subclause 2(2), DMOs particularly need to be able to provide information in relation to:

- the presence of substances in meals which have the potential to cause a severe adverse reaction such as cereals containing gluten; milk; eggs; fish and crustacean; peanuts and soybeans; tree nuts; sesame seeds; and added sulphites; and
- the nutritional composition of the food where a nutrition claim, such as low fat, is made.

To qualify for an exemption from general labelling under subclause 2(1)(f) of Standard 1.2.1 the packaged delivered meal must satisfy each of the following criteria:

- the food is delivered packaged; and
- ready for consumption; and
- at the ‘express order’ of the purchaser.

Considering the varying circumstances in which packaged meals are provided by DMOs, it is possible that in certain situations not all of these criteria will be satisfied. In practice this would mean that packaged meals provided by DMOs would require full labelling, as outlined in section 6.2 of this Report.

### 6.5.2 *Submitter comments*

The majority of submitters support minimal labelling requirements for DMOs and an amendment of clause 2 in Standard 1.2.1 to require all packaged meals to be labelled with certain minimum prescribed information. Most submitters indicated that this approach would be a practical, workable option which aligns with current labelling practices and would support efforts to provide consumers with safe food.

Some submitters however commented that changes to labelling requirements could threaten the long-term viability and volunteer nature of the DMOs and may involve significant cost for local governments and increase cost to consumers.

It was highlighted in some submissions that maintaining the *status quo* would not resolve difficulties and confusion caused by the current labelling requirements for DMOs in Standard 1.2.1. It was stated that current non-compliant meals present an enforcement dilemma and potentially a public health and safety issue, which maintaining the current labelling situation would not improve. Several submitters appeared unclear of where current labelling exemptions apply

It was acknowledged that the majority of DMOs identify clients' special dietary needs, including allergies and food preferences at an assessment for eligibility, although it was acknowledged that this information may not always be clearly outlined on the label of the delivered meal. A survey undertaken by the NSW Meals on Wheels Association in 2003, highlighted that when the DMOs were asked how they met the needs of clients with allergies nearly half the respondents (42%) indicated that they ask the client about their allergies, inform the cook and record the client's allergies (on a run sheet, delivery board etc). It was also acknowledged that someone checks each mealtime to ensure the client receives the right meal. There was a similar response for clients with special diets. However, a number of services indicated that although special diets might be recorded and volunteers informed, the information may not always be checked and there is potential for mix ups to occur. These findings highlight the need for a system to ensure the needs of clients with allergies or requiring special diets are met.

### 6.5.3 *Proposed approach*

FSANZ proposes to create a clause - *Labelling of packaged meals for delivered meal organisations* in Standard 1.2.1 to require all packaged meals provided by DMOs to be labelled with certain minimum prescribed information. Under this option all packaged meals provided by DMOs would be required to bear a label but the prescribed information would be limited to certain pieces of information necessary to facilitate a food recall and to protect public health and safety. These information requirements that apply to DMOs will be considered separately to food for retail sale.

All DMO packaged meals must include the following prescribed information on the label:

- the name of the food;
- supplier details;
- lot identification;
- date marking information in accordance with Standard 1.2.5;
- directions for use and storage where required by Standard 1.2.6; and

- mandatory warning and advisory statements and declarations in Standard 1.2.3.

#### 6.5.3.1 The name of the food, lot identification and supplier details

The name of the food, supplier details and lot identification are necessary on packaged food to clearly identify a food and to facilitate a food recall should one be required. Lot identification requirements may be met by the provision of supplier details and date marking information.

#### 6.5.3.2 Date marking information and directions for use and storage

Date marking information and directions for use and storage are necessary to address an identified public health and safety risk.

Date marking information, usually in the form of a ‘best before’ date is considered necessary information to clearly alert the consumer when the packaged meal should be consumed. This information is especially important if a number of packaged meals are provided to a consumer in one delivery, or alternatively the delivered meals are not for immediate consumption and placed in the refrigerator freezer for longer storage periods.

Directions for use and storage information is also considered imperative to inform the consumers of delivered meals of the directions of use and/ instructions to store the meal appropriately. Without this information FSANZ believes that there is potential concern for public health and safety.

#### 6.5.3.3 Mandatory warning and advisory statements and declarations

Mandatory warning and advisory statements and declarations are required to be supplied in accordance with Standard 1.2.3.

The recipients of DMOs can represent a sensitive and vulnerable population. In the absence of ingredient and nutrition labelling, FSANZ considers that DMOs should provide mandatory warning and advisory statements and declarations on the label of all delivered meals. This information is particularly important, as delivered meals may contain substances that may cause severe adverse reactions in sensitive individuals and also it is feasible that the meal may not always be consumed by the intended recipient, and therefore these substances should be clearly identified on the label.

FSANZ is aware that many DMOs received prepared packaged meals for delivery to clients from hospitals, pubs and even road houses. A packaged meal supplied by hospitals are captured in the proposed definition of food for retail sale and would require labelling accordingly. FSANZ is aware that this may be considered an onerous labelling requirement, especially for remote hospitals and other establishments supplying a small number of meals to DMOs. A subclause has been created in Standard 1.2.1, outlining that packaged meals prepared by food businesses and supplied to DMOs will only be required to bear a label with the minimum prescribed information required on the label of a packaged meal delivered by a DMO.



DMOs that currently do not label meals could take the opportunity to meet the proposed reduced labelling requirements. This would result in some adjustments and cost, but would ensure that clients of DMOs get the appropriate information on their food.

FSANZ is aware that a significant proportion of packaged delivered meals are currently labelled. It appears that in many cases labels include the name of the food, supplier details, lot identification, date marking information and directions for use and storage. With this in mind, the proposed option for some DMOs may require a minimal change to current practices.

## **6.6 Nutrition Labelling and Health Claims**

### *6.6.1 The issue*

The current prohibition on health claims on food means that foods must not be labelled with the name of, or a reference to, any disease or physiological condition<sup>3</sup>. Consequently, the use of a term such as ‘diabetic’ on the label of a food would constitute a breach of the current health claims standard. FSANZ is aware that DMOs often use this type of labelling to facilitate meal delivery to clients.

In the circumstances where the current exemption in paragraph 2(1)(f) in Standard 1.2.1 does apply to packaged delivered meals, a voluntary nutrition claim such as ‘low fat’ or ‘low sodium’ will trigger the information requirements under subclauses 4(2) & 4(3) of Standard 1.2.8 (referenced in paragraphs 2(2)(e) & (f) of Standard 1.2.1).

In practice this means that nutrition information in relation to the claim must either be;

- provided in a NIP on or in connection with the display of the food; or
- provided to the purchaser on request.

FSANZ is aware that some DMOs are using acronyms<sup>4</sup> to identify these meals rather than using a term, which may constitute a breach of the current standard.

### *6.6.2 Submitter comments*

It was highlighted in submissions that due to the huge amount of variability in each meal, often made to client’s preferences, it would be difficult to label packaged meals with a NIP. It was also stated that DMOs would not have the technical expertise required to comply with these labelling requirements.

One submitter indicated that ingredient and nutrition labelling, including a NIP may be important in the absence of permitted health claims for people to assess the suitability of the meal for their health condition. However it was acknowledged that full labelling may impose unreasonable cost to these organisations.

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<sup>3</sup> subclause 3(d) in Standard 1.1A.2

<sup>4</sup> NAS (no added sugar) is used by some providers to identify foods which may be suitable for diabetics

### 6.6.3 *Proposed approach*

An exemption from the proposed Standard 1.2.7 – Health and Nutrition Claims will be provided for DMOs. FSANZ considers that the label on a delivered meal is one avenue for patients/clients who receive the meals and also staff members who deliver meals, to assess the suitability of the food delivered. FSANZ also considers that other provisions of the provisional Standard 1.2.7 e.g. compositional requirements of foods eligible to carry claims, may not be relevant for delivered meals.

In practice, an exemption from the proposed Standard 1.2.7 would facilitate DMOs to continue to label meals making reference to disease states (including diabetes, cardiac health etc), also enabling these organisations to use voluntary claims such as ‘low fat’ and ‘low sodium’ on the label of prepared meals without triggering the criteria and conditions for making a health claim under the proposed Standard. Drafting to this effect has been included in the draft Standard 1.2.7, which will be released for public consultation in 2007, as part of Proposal P293 – Nutrition, Health and Related Claims. It is acknowledged that Standard 1.1A.2 – Transitional Standard for Health Claims, will have to be amended to provide this exemption, if Standard 1.2.7 is not gazetted prior to the changes outlined in this Proposal.

## **6.7 Country of Origin Labelling**

### 6.7.1 *The issue*

Country of origin labelling is considered to be an onerous labelling requirement for DMOs.

### 6.7.2 *Submitter comments*

There was no reference to country of origin labelling in submissions received to the Initial Assessment Report.

### 6.7.3 *Proposed approach*

The information requirements that apply to DMOs will be considered separately to food for retail sale. As a result, country of origin labelling will not be required for packaged meals provided by DMOs.

It should be acknowledged, however, that other pre-packaged components of a meal intended to be generally available for retail sale, such as a tub of yoghurt or fruit juice, would be required to be fully labelled, and this includes country of origin labelling where required.

It is proposed that DMOs will have a 12 month lead in time to implement the amendments outlined in this Proposal.

## **7. Labelling of Meals provided in Hospitals and Similar Institutions**

### **7.1 Background**

In Australia and New Zealand, meals plated in commercial kitchens and covered by plastic, foil or hard covered domes are provided to patients in hospital settings.

The meals may either be ordered by the patient, ordered by a dietitian or may be provided as a default meal when the patient is not present at the time of ordering. A similar practice occurs in nursing homes and other facilities such as prisons. In most cases the meals are prepared and plated at the site on which they are provided. However, in some circumstances the meals are prepared at another location and transported to the hospital or similar institution. In these circumstances, the meals are either plated where they are prepared or plated at the location in which they are provided to the recipient of the meal.

FSANZ acknowledges that hospitals and similar institutions provide low cost, safe and nutritious meals, while in some cases working under considerable constraints and with limited resources.

## **7.2 Labelling Requirements**

### *7.2.1 The Issue*

Under the Model Food Act in Australia and the New Zealand *Food Act 1981*, the term ‘sell’ is broadly defined and includes *the supply of food to patients in hospitals and supply under a contract together with accommodation, service or entertainment, in consideration of an inclusive charge for the food supplied and the accommodation, service or entertainment*. Reading the broad definition of ‘sell’ together with the definition of ‘retail sale’ in Standard 1.2.1, meals provided in prisons, hospitals and similar institutions are considered to be ‘food for retail sale’ and therefore fall within the scope of the requirements in clause 2 in Standard 1.2.1.

Since the joint Code came into effect, FSANZ has been made aware of a number of problems associated with the application of the clause 2 requirements in Standard 1.2.1 as they apply to meals provided by prisons, hospitals and similar institutions. There are several issues which have been identified as requiring further consideration. These issues include:

- the definition of a package;
- the appropriateness and application of the exemptions in subclause 2(1) which apply to meals provided by prisons, hospitals and similar institutions;
- nutrition labelling and health claims;
- mandatory warning and advisory statements and declaration; and
- the appropriateness of country of origin labelling for meals provided in prisons, hospitals and similar institutions.

Food for retail sale, unless otherwise exempt, is required to bear a label setting out all the information prescribed in the Code. During the transition to the Code, FSANZ advised that meals delivered to inmates in prisons and patients in hospitals or similar institutions are considered to be exempt from labelling under either:

- paragraph 2(1)(c) the food is made and packaged on the premises from which it is sold; or
- paragraph 2(1)(f) the food is delivered packaged and ready for consumption, at the express order of the purchaser.

Other food, for example loose fruit, is considered exempt from labelling under paragraph 2(1)(a) *as the food is other than in a package*.

Food presented on a plate is considered to be *'food other than in a package'* and is exempt from labelling under paragraph 2(1)(a). However, by virtue of the broad definition of 'package' in Standard 1.1.1, once the food is covered by plastic, foil or a hard covered dome, the food is considered packaged and the exemption in paragraph 2(1)(a) no longer applies. Given that in most circumstances the meals provided in prisons, hospitals and similar institutions are covered in some way to maintain food at the correct temperature for food safety, the only remaining exemptions which may apply are those in paragraphs 2(1)(c) and 2(1)(f).

Where meals are prepared and served on site, service providers can rely on the labelling exemption in paragraph 2(1)(c). Where patients or inmates pre-select a meal from a menu, service providers can rely on the exemption in paragraph 2(1)(f). However, the meal would be required to be fully labelled with all the information prescribed in the Code in the circumstances where the meals provided within a prison, hospital or similar setting are:

- covered and contained in some way i.e. are 'packaged'; and
- have not been prepared and served on site; and
- the patient or inmate has not expressly ordered the food by pre-selecting from a menu (default meals are provided or institutions do not provide patients with any meal choices).

Prisons, hospitals and similar institutions must still comply with the information requirements in subclause 2(2) in Standard 1.2.1. In the context of subclause 2(2), these institutions particularly need to be able to provide information in relation to:

- the presence of substances in meals which have the potential to cause a severe adverse reaction such as cereals containing gluten; milk; eggs; fish and crustacean; peanuts and soybeans; tree nuts; sesame seeds; and added sulphites; and
- the nutritional composition of the food where a nutrition claim, such as low fat, is made.

Given that the current exemptions in subclause 2(1) in Standard 1.2.1 do not apply in every circumstance in which meals are prepared and served in prisons, hospitals and similar institutions, an ongoing reliance on these labelling exemptions will continue the uncertainty for these service providers and enforcement agencies.

It is necessary to review the current requirements in clause 2 in Standard 1.2.1, whilst ensuring that labelling is consistent to the varying circumstances in which meals are provided in prisons, hospitals and similar institutions. At the same time, the provision of low cost, nutritious and safe meals in these institutions should be assured, and the information needs of patients and inmates should be met.

### 7.2.2 *Submitter comments*

Submitters' views were mixed in relation to the labelling requirements for hospitals and similar institutions. Some submitters indicated that current legislation was reasonably clear but support an amendment if it achieved a consistent interpretation of the legislation. It was highlighted that clarification on labelling exemptions would assist with enforcement and potentially avoid unnecessary, costly labelling.

One submitter indicated that exemption 2(1)(f) *food delivered packaged at the express order of the consumer* applies to as little as 50% of the patient population due to the rate of admissions, ongoing diet changes and the patient often not being able to pre-select their own meals. It was highlighted that the majority of hospitals and aged-care settings have the ability to provide full nutritional information of prepared menu items in a paper format to consumers upon request.

Many submitters stated that it was unnecessary to fully label meals, highlighting that it would be an unwarranted expense to hospitals and similar institutions. These submitters indicated that the most workable option that reflected current practice would be to review the definition of a 'package' in Standard 1.1.1 to not include a covered plate or a tray when used in a hospital or similar institution. It was suggested that this option would have minimal impact on the current provision of plated meals.

### 7.2.3 Proposed approach

FSANZ proposes to redefine the definition of 'package' in Standard 1.1.1 to indicate that a package does not include a covered plate or a tray when used in a prison, hospital or similar institution. It is envisaged that this will also apply to covered cups and bowls when used in these institutions. The proposed definition is outlined below;

**package** means any container or wrapper in or by which food intended for sale is wholly or partly encased, covered, enclosed, contained or packaged and, in the case of food carried or sold or intended to be carried and sold in more than one package, includes every such package, but does not include –

- (a) bulk cargo containers; or
- (b) pallet overwraps; or
- (c) crates and packages which do not obscure labels on the food; or
- (d) transportation vehicles; or
- (e) a vending machine; or
- (f) a hamper; or
- (g) food served on a covered plate, cup, tray or other food container in prisons, hospitals or other similar institutions listed in the Table to clause 8 of Standard 1.2.1.

Under this option, meals provided by prisons, hospitals and similar institutions presented on a plate, bowl, cup or tray covered by plastic, foil or a hard covered dome would not be considered to be packaged. Therefore, the meal component would be exempt from labelling under the exemption in paragraph 2(1)(a) *the food is in other than a package*. It should be noted that pre-packaged components of meals served in prisons, hospitals or similar institutions which are generally available for retail sale, such as packaged breakfast cereals, yoghurt or fruit juice, would be required to be fully labelled.

## 7.3 Nutrition Labelling and Health Claims

### 7.3.1 *The issue*

Similarly to delivered meal organisations FSANZ is aware that hospitals and similar institutions label meals (this includes tray tickets accompanying a meal) making reference to disease states and/or making voluntary nutrition claims to facilitate meal delivery to clients.

The current prohibition on health claims on food means that foods must not be labelled with the name of, or a reference to, any disease or physiological condition (Subclause 3(d) in Standard 1.1A.2). Consequently, the use of a term such as ‘diabetic’ or ‘cardiac’ on the label of a meal would constitute a breach of the current health claims standard.

A voluntary nutrition claim such as ‘low fat’ or ‘low sodium’ will trigger the information requirements under subclauses 4(2) & 4(3) of Standard 1.2.8 – Nutrition Information Requirements (referenced in paragraphs 2(2)(e) & (f) of Standard 1.2.1).

In practice this means that nutrition information in relation to the claim must either be:

- provided in a NIP on or in connection with the display of the food; or
- provided to the purchaser on request.

### 7.3.2 *Submitter comments*

Submitters suggested that a provision should be introduced in the health claim standard to allow hospitals and similar institutions to label meals according to disease states. It was suggested that this should only apply when the meal service is under the management or guidance of an Accredited Practising Dietitian (APD).

### 7.3.3 *Proposed approach*

An exemption from the proposed Standard 1.2.7 – Health and Nutrition Claims will be provided for hospitals and similar institutions. In practice, this exemption would enable these organisations to continue to label meals making reference to disease states (including diabetes, cardiac health etc), also enabling these organisations to use voluntary claims such as ‘low fat’ and ‘low sodium’ on the label of prepared meals.

FSANZ considers that the label on a delivered meal is one avenue for patients who receive the meals and also staff members who deliver meals, to assess the suitability of the food delivered. FSANZ also considers that other provisions of the provisional Standard 1.2.7 e.g. compositional requirements of foods eligible to carry claims, may not be relevant for hospital meals.

In practice an exemption from the proposed Standard 1.2.7. would facilitate hospitals and similar institutions to continue to label meals making reference to disease states, also facilitating the use voluntary claims such as ‘low fat’ and ‘low sodium’ on the meal label or tray ticket without triggering the criteria and conditions for making a health claim under the proposed standard. Drafting to this effect has been included in the draft Standard 1.2.7.

It is acknowledged that Standard 1.1A.2 – Transitional Standard for Health Claims would have to be amended, to provide this exemption, if Standard 1.2.7 is not gazetted prior to the changes outlined in this Proposal.

## **7.4 Mandatory Warning and Advisory Statements and Declarations**

### *7.4.1 The issue*

Mandatory warning and advisory statements and declarations are required to be supplied in accordance with Standard 1.2.3.

Despite meals provided by prisons, hospitals and similar institutions being unlabelled, consumers who are concerned about the potential adverse reactions from food can request information about the food (including mandatory warning and advisory statements and declarations) from the provider of the service either at the time the meal is ordered or when the meal is delivered.

It is evident that any special dietary conditions including food allergies or intolerances are taken into account during the selection and preparation of the meal prior to food service in hospitals and similar institutions. In the case of a default meal, it appears that there are systems in place to ensure the provision of information, when the patient requests it. Some institutions have computerised software management systems that identify patients that have particular dietary requirements, and subsequently they are only offered and served foods compliant with their diet, thereby protecting public health and safety.

### *7.4.2 Submitter comments*

One submitter indicated that mandatory declarations, warning and advisory statements should be provided or available for health and safety reasons, noting the possibility of patients not being able to alert staff of allergies or insensitivities prior to meal service.

### *7.4.3 Proposed approach*

Redefining the definition of a package in Standard 1.1.1, to exclude covered plates, bowls, cups and trays, enables all meals provided in prisons, hospitals and similar institutions to qualify for a labelling exemption under paragraph 2(1)(a) *the food is in other than a package*.

In practice, mandatory warning and advisory statements and declarations will not need to be provided on the label of meals provided in prisons, hospitals and similar institutions. Instead this information must be declared on or in connection with the food or provided to the purchaser upon request.

Prisons, hospitals and similar institutions particularly need to be able to provide information in relation to the presence of substances in meals which have the potential to cause a severe adverse reaction such as cereals containing gluten; milk; eggs; fish and crustacean; peanuts and soybeans; tree nuts; sesame seeds; and added sulphites.

FSANZ considers the current hospital system of identifying patients with special dietary needs, including allergies, together with the availability of suitably trained staff on the site of food preparation to provide the necessary information, is sufficient to address public health and safety requirements.

## 7.5 Country of Origin Labelling

### 7.5.1 *The issue*

As is the case for DMOs, country of origin labelling is considered an onerous labelling requirement for prisons, hospitals and similar institutions.

### 7.5.2 *Submitter comments*

There was no reference to country of origin labelling in submissions to the Initial Assessment Report.

### 7.5.3 *Proposed approach*

Prisons, hospitals and similar institutions will be provided with an exemption from Standard 1.2.11 - Country of Origin Requirements.

It should be acknowledged, however, that other pre-packaged components of a meal intended to be generally available for retail sale, such as a packaged breakfast cereal, yoghurt or fruit juice, would be required to be fully labelled, and this includes country of origin labelling where required.

## 8. Regulatory Options

The regulatory options considered for this Proposal are as follows:

### **Option 1 – Maintain the *status quo* and retain the current requirements in clause 2 in Standard 1.2.1.**

Under this option the *status quo* will remain. That is food for retail sale and food for catering purposes will continue to be considered together in clause 2 of Standard 1.2.1, with the same application of exemptions and application of information requirements where the food is exempt from labelling.

### **Option 2 – Amend the requirements in clause 2 of Standard 1.2.1 and other Standards with clauses connected to Standard 1.2.1, in relation to food for catering purposes and food for retail sale (including meals provided by delivered meal organisations and prisons, hospitals or similar institutions) to provide greater certainty for manufacturers and suppliers, by better reflecting the circumstances in which these foods are provided.**

Under this option food for retail sale and food for catering purposes will be considered separately in Standard 1.2.1 with relevant exemptions and information requirements applying to each. Furthermore, packaged meals provided by delivered meal organisations will be considered separately in Standard 1.2.1 and ambiguities regarding the labelling requirements of meals provided in prisons, hospital and similar institutions will be addressed.



## **9. Impact Analysis**

FSANZ is required, in the course of developing regulations suitable for adoption in Australia and New Zealand, to consider the impact of various options on all sectors of the community, including consumers, the food industry and governments in both countries. The regulatory impact assessment identifies and evaluates the advantages and disadvantages of amendments to the standards, and their health and economic impacts.

### **9.1 Affected Parties**

Parties affected by this Proposal include:

1. Government agencies that regulate and enforce the Code in Australia and New Zealand.
2. Industry: manufacturers, processors, caterers, hospitality, retailers and the health care sector.
3. Non-Government Organisations: delivered meal organisations, health care sector, community based organisations and institutions and fund-raising bodies.
4. Government organisations: delivered meal organisations, health care sectors and institutions.
5. Consumers: all consumers, including vulnerable populations.

### **9.2 Benefit Cost Analysis**

FSANZ has collected information following the Initial Assessment Report that has been used to develop a regulatory impact analysis for this Draft Assessment Report. Stakeholders have been encouraged to present data in response to the key issues of this Proposal, giving consideration to all affected parties wherever possible.

### **9.3 Enforcement Agencies in Australia and New Zealand**

There are a number of benefits to enforcement agencies resulting from the proposed changes to the Code. The amended Code will allow enforcement officers to enforce labelling requirements more effectively by providing legal clarity regarding the responsibilities of food manufacturers and retailers in complying with the Code. Ambiguities have been removed, and this provides a direct benefit by reducing enforcement costs and more indirect benefits by generally increasing the effectiveness of the food regulatory system at the enforcement level.

There are no increased costs to enforcement agencies as a result of the proposed amendments.

### **9.4 Industry**

It was highlighted in submissions to the Initial Assessment Report that any major extension of labelling requirements would lead to significant costs to Industry. However, the proposed amendments would at most require minimal changes to current practice, and therefore would incur no or minor additional costs to industry. They would provide a tangible benefit to industry by providing more user friendly labelling requirements and reducing ambiguity. Generally, the same information would be required, but the provision of some of that information would be more suited to industry needs, reducing compliance costs.

Some additional labelling requirements are proposed in cases where serious food safety risks have been identified, and where FSANZ considers the requirements of the Code to be inadequate to manage those risks. The costs associated with those amendments would most likely be low and commensurate with the risk that is being managed:

- Manufacturers would need to label inner packages with royal jelly warning statement when 30 cm<sup>2</sup> or greater.
- For unpackaged food, the name of the food and a use-by-date (where the food should be consumed before a certain date because of health or safety reasons) would be required on or in connection with the display of the food or provided to the purchaser on request.

There are also some proposed minor reductions in labelling requirements that may result in a reduction in cost to industry:

- Less restrictive requirements for labelling of foods sold from vending machines. Currently, vending machines require full labelling.
- Less restrictive requirement for labelling of hampers. Not all information would be required on the outside of the hamper which is impractical. Currently, the Code requires full labelling of hampers.

## **9.5 Non-Government Organisations (NGOs)**

The Proposal aims to clarify a number of issues in regards to labelling of meals provided by DMOs. There are clear benefits to such an approach to enforcement agencies, because the proposed approach provides further clarification for enforcement officers and for consumers, because they are intended to provide more appropriate information on delivered meals.

The approach proposed by FSANZ would provide DMOs with greater freedom to operate by excluding delivered packaged meals from many of the labelling requirements that currently apply. These include labelling requirements triggered by carrying a health claim, also country of origin labelling. This takes into consideration that small NGOs may not have the technical expertise to comply with these labelling requirements. It is also acknowledged that some packaged meals which currently require full labelling would be largely exempt. NGOs would benefit from these exemptions by a significant reduction in compliance costs.

Where the health and safety of consumers is at risk, FSANZ believes that appropriate risk management measures should be taken by the regulators. In general terms, the proposed approach may require a minimal change to current practice; therefore most DMOs would incur little additional cost.

However, for a small proportion of DMOs that are currently not labelling packaged meals (i.e. those not in compliance with the current regulations), some significant costs might be incurred. In addition, the following labelling requirements might apply to a small number of delivered meals that were previously exempt under exemption 2(1)(f) of Standard 1.2.1 *the food is delivered packaged, and ready for consumption, at the express order of the purchaser*: name of the food; supplier details; date marking; directions for use and storage where required; and mandatory warning and advisory statements and declarations where required. Submissions suggested that increases in labelling requirements may lead to increased costs for local government and auspice bodies, and increase costs to consumers.

Costs outlined in submissions included increased number of paid staff, support and training of volunteers and appropriate software and printers to generate labels.

FSANZ considers that these information requirements are an appropriate risk management measure in response to significant food safety risks. By appropriate labelling, the consumer, their carers and the person delivering the food will be provided with important information to assist them in reducing the risk of food-borne illness or adverse reactions to food components.

Furthermore, the Proposal aims to provide clarification on the labelling requirements of food sold at fundraising events by the means of an editorial note. This will assist fundraising event organisers in interpreting the current labelling requirements that apply to fundraising activities.

## **9.6 Government Organisations**

The Proposal aims to clarify a number of issues in regards to labelling of meals provided by prisons, hospitals and similar institutions. As with DMOs, there are clear benefits to such an approach to enforcement agencies and for consumers.

Data provided by stakeholders suggest that if the *status quo* is maintained, the majority of meals provided in hospitals would be required to be fully labelled. The estimated costs for labelling hospital meals provided in submissions is in the range AUD \$300,000 – 400,000 per year in large hospitals. This cost would not be incurred by implementing the suggested amendments.

The approach proposed by FSANZ reflects current practice in most prisons, hospitals and similar institutions but provides greater certainty surrounding the labelling requirements. No additional costs to prisons, hospitals and similar institutions have been identified.

## **9.7 Consumers**

The proposed amendments provide greater clarity and certainty on existing labelling requirements, mostly without mandating additional labelling requirements. Most consumers are unlikely to notice any significant changes with the proposed option, but would indirectly benefit from increased compliance with the Code and from decreased enforcement costs.

In the cases where there are some minor additional costs, these may be passed on to the consumer. In particular, this may occur in the case of consumers of delivered meals.

As discussed above, consumers will benefit from some additional information provided on food labels. In particular, consumers of delivered meals and their carers (where applicable) will benefit from improved labelling requirements. FSANZ acknowledges the right of all consumers, including consumers that require assistance when purchasing food, to make informed purchasing decisions.

In addition to improved labelling of delivered meals, consumers will benefit from the amended Standard as follows:

- Inner packages with a surface area of 30 cm<sup>2</sup> or greater would be labelled with royal jelly warning statement, which is of benefit to consumers who suffer from allergic reactions to this food;
- Hampers will be more presentable and better meet consumer needs without excessive labelling on the outside;
- For unpackaged food, consumers will be provided with a name of the food that indicates its true nature; and
- Date marking now required for foods previously exempt from labelling. This will assist consumers in using the food before its use-by-date.

In the cases where there are some minor additional costs to industry, NGOs or governments, these may be passed on to the consumer. In particular, this may occur in the case of consumers of delivered meals. FSANZ proposes that any minor costs are offset by the benefits to consumers discussed above.

In some cases it is possible that minor cost (i.e. loss of information) will be incurred to consumers due to a decrease in labelling requirements. In particular:

- In the case of hampers, not all information will be provided on the outside of the product, although items within will be fully labelled.
- Not all information that is required on packaged food will be provided on the outside of vending machines.

## 9.8 Summary

The approach taken by FSANZ in Proposal P272 is to provide clarity and greater certainty on existing labelling requirements without mandating additional labelling requirements. Industry, governments, NGOs and consumers will benefit as a result of improved regulations regarding labelling of food.

The outcome of the changes to the Code proposed by FSANZ are predominantly technical in nature, and generally require, little or no changes to current practice, resulting in little or no additional costs. In cases where there may be some minor costs associated with the proposed amendments these are commensurate with the risk that is being managed.

## 10. Comparison of Options

Two regulatory options have been identified at Draft Assessment:

### 10.1 Option 1

**Maintain the *status quo* and retain the current requirements in clause 2 in Standard 1.2.1.**

#### 10.1.1 Benefits

- Industry will be able to continue to label foods according to the *status quo* and no additional costs will be incurred.

- There will be no changes to current labelling requirements; therefore consumers will not have to adjust to any new labelling information.

#### *10.1.2 Disadvantages*

- Impracticalities of the current labelling requirements will not be resolved.
- Clarification of ambiguous or confusing regulatory requirements will not be provided.
- Confusion and unnecessary costs associated with the current labelling requirements for meals provided by delivered meal organisations and meals provided in prisons, hospital and similar settings will remain.
- The application of exemptions in Standard 1.2.1 would not be clarified. These uncertainties may result in cost increases for some providers of packaged meals who may feel compelled to label all meals to comply with labelling requirements.
- Interpretation and consequential enforcement difficulties which arise from the current standards will continue.

### **10.2 Option 2**

**Amend the requirements in clause 2 of Standard 1.2.1 and other Standards with clauses connected to Standard 1.2.1, in relation to food for catering purposes and food for retail sale (including meals provided by delivered meal organisations and prisons, hospitals or similar institutions) to provide greater certainty for manufacturers and suppliers, by better reflecting the circumstances in which these foods are provided.**

#### *10.2.1 Benefits*

- Provides clarity of regulatory requirements for industry and enforcement officers, allowing enforcement officers to enforce labelling requirements more effectively by providing legal clarity regarding the responsibilities of food manufacturers and retailers in complying with the Code.
- More appropriate and less onerous labelling requirements and associated cost savings will apply to different sectors of industry including: vending machine operators, hamper suppliers, suppliers of foods for catering purposes and non-government organisations including delivered meal organisations, health care sectors and institutions.
- Provide clarity and greater certainty on existing labelling requirements. Industry, governments, non-government organisations and consumers will benefit as a result of improved regulations regarding labelling of food.
- Provide a tangible benefit to industry by providing more user friendly labelling requirements and reducing ambiguity

#### *10.2.2 Disadvantages*

- Some labelling amendments will require modifications to current practice and therefore some additional costs may occur.
- Minor cost increases may be passed on to the consumer.

### **10.3 Preferred Approach**

FSANZ recommends Option 2 (amending clause 2 of Standard 1.2.1 and other Standards with clauses connected to Standard 1.2.1 in relation to food for catering purposes and food for retail sale to provide greater certainty and to better reflect the circumstances in which foods are provided). Attachment 3 provides a summary of the labelling requirements proposed under Option 2.

The proposed amendment to the Standard:

- is consistent with FSANZ's objectives;
- benefits industry, governments, non-government organisations and consumers as a result of improved regulations for labelling of food; and
- provides clarity and certainty for enforcement officers by removing ambiguities from current labelling requirements.

The labelling requirements for food for retail sale, food for catering purposes and packaged meals provided by delivered meal organisations will be considered separately in Standard 1.2.1, eliminating much of the current confusion that has resulted with these food items being considered together in clause 2 of Standard 1.2.1. In addition, ambiguities regarding the labelling requirements of meals provided in hospital and similar institutions will be addressed. Furthermore, given the uniqueness of these industry sectors more relevant labelling requirements are provided for each.

## **COMMUNICATION**

### **11. Communication and Consultation Strategy**

FSANZ has prepared a strategy to guide communication and consultation initiatives to raise awareness and understanding of the proposed amendments to Standard 1.2.1 – Application of Labelling Requirements and Other Information Requirements.

A guide to the Standard will be prepared to assist manufacturers, retailers, delivered meal organisations, prisons, hospitals and enforcement officers with interpreting and applying the proposed changes to the Code. This guide will incorporate interpretation and compliance advice for manufacturers and retailers on the standard, including worked examples. It is also envisaged that a number of facts sheets targeted at groups with a direct interest in the application of labelling requirements will be developed as part of this communication strategy.

To further assist with the implementation of the strategy, FSANZ will hold information sessions on request to provide further assistance to interested parties and key stakeholders to this Proposal.

### **12. Consultation**

FSANZ received a total of 56 written submissions in response to the Initial Assessment Report for this Proposal during the public consultation period of 15 December 2004 to 23 February 2005.

Overall, the majority of submitters were in support of a review and amendment of labelling requirements in clause 2 in Standard 1.2.1 of the Code.

A full summary of the issues raised in submissions are addressed throughout this Report and is provided in Attachment 4.

Issues identified from submissions received at Initial Assessment formed the basis of targeted consultation with key stakeholder groups. Information from stakeholders has informed FSANZ's approach for determining the appropriate regulatory option for the labelling requirements for each aspect of this Proposal, the impact analysis and the recommendation for the implementation phase.

Prior to this Initial Assessment, FSANZ formed an Implementation and Enforcement Advisory Group (IEAG) to provide advice from an enforcement perspective on issues included in this Proposal. The IEAG had representation from the Health Departments in New South Wales, Western Australia, Queensland and from the New Zealand Food Safety Authority (NZFSA) and AQIS. The IEAG met on three occasions in 2003.

During Draft assessment, FSANZ reformed the IEAG with representation from NSW Food Authority, the NZFSA, and from the Health Departments in Queensland and Western Australia. The IEAG met twice in October 2006.

FSANZ also provided further advice on the regulatory options being considered in this Proposal to Australian and New Zealand stakeholders. In a series of meetings convened in October and November 2006, FSANZ consulted with DMOs, with providers of meals in hospitals and similar institutions, and with interested food industry representatives. Issues raised as part of group discussions in these sessions have been incorporated into this report where possible.

## **12.1 World Trade Organization (WTO)**

As members of the World Trade Organization (WTO), Australia and New Zealand are obligated to notify WTO member nations where proposed mandatory regulatory measures are inconsistent with any existing or imminent international standards and the proposed measure may have a significant effect on trade.

The aim of this Proposal is to refine an existing standard in the Code without significantly altering regulatory requirements. FSANZ considers that the proposed amendments are unlikely to have any foreseeable impact on international trade and therefore notification of the WTO under either the Technical Barriers to Trade or Sanitary and Phytosanitary Agreements will not be required.

## **CONCLUSION**

### **13. Conclusion and Preferred Option**

FSANZ recommends the amendment of Standard 1.1.1, Standard 1.2.1, Standard 1.2.2, Standard 1.2.5 and Standard 1.2.11 in relation to food for catering purposes and food for retail sale, including meals provided by delivered meal organisations, prisons, hospitals and similar institutions.

FSANZ concludes that this option (Option 2) is the preferred approach at Draft Assessment for the following reasons:

- The approach will provide clarity and greater certainty on existing labelling requirements without mandating additional labelling requirements. Industry, governments, non-government organisations and consumers will benefit as a result of improved regulations regarding labelling of food.
- The impact analysis indicates that the outcome of the changes to the Code proposed by FSANZ are predominantly technical in nature and intend, and generally require, little or no changes to current practice, and therefore incur little or no additional costs. In the case where there may be some minor costs associated with the proposed amendments these are commensurate with the risk that is being managed.
- The labelling requirements for food for retail sale, food for catering purposes and packaged meals provided by delivered meal organisations will now be considered separately in Standard 1.2.1, eliminating the current confusion that has resulted with these food items being considered together in clause 2 of Standard 1.2.1.
- The proposed amendments to the Code will allow enforcement officers to enforce labelling requirements more effectively by providing legal clarity regarding the responsibilities of food manufacturers and retailers in complying with the Code.
- The preferred approach provides clarity for enforcement officers and various sectors of the food industry by removing ambiguities in the current labelling requirements in Standard 1.2.1. In addition, the uncertainties surrounding the labelling requirements of meals provided in prisons, hospital and similar institutions will be addressed.

#### **14. Implementation and Review**

Following the consultation period for this document, the Final Assessment of the Proposal will be undertaken and a Final Assessment Report prepared. Following the consideration by the FSANZ Board, a notification will be made to the Ministerial Council and it is anticipated that this will be completed in the later half of 2007.

Subject to any request from the Ministerial Council for a review, it is proposed that the amendments will come into effect upon gazettal, with the exception of the requirements as they relate to DMOs. DMOs will have a 12-month lead in time to enable them to implement the requirements.

Division 1 of Standard 1.1.1 – Preliminary Provisions - Application, Interpretation and General Prohibitions of the Code requires a food product to comply with any variation to the Code within 12 months after the commencement of the variation. It is proposed that this standard transitional period will apply to the amendments of the Code proposed in this report. However, it should be noted that the food for retail sale definition will commence and apply exclusively from the date of gazettal.



## ATTACHMENTS

1. Draft variations to the *Australia New Zealand Food Standards Code*
2. Current Standard 1.2.1 – Application of Labelling and Other Information Requirements.
3. Overview of proposed labelling requirements for food for retail sale and food for catering purposes
4. Summaries of issues raised in public submissions in the first round
5. Membership of the Implementation and Advisory Group in 2006

**Draft Variations to the *Australia New Zealand Food Standards Code***

To commence: On gazettal other than clause 7 of Standard 1.2.1, which commences 12 months from gazettal.

[1] **Standard 1.1.1** of the *Australia New Zealand Food Standards Code* is varied by –

[1.1] *inserting in clause 2, after the definition of fund raising events –*

**Editorial note:**

Fund raising event organisers should be aware that there may be State or Territory legislative requirements that need to be complied with in order to conduct the event.

[1.2] *inserting in clause 2 –*

**hamper** means a decorative basket, box or receptacle containing any number of separately identifiable food items that are not offered for individual sale.

**Editorial note:**

A hamper may also contain non - food items such as decorative cloths, glasses and dishes.

**handling** of food includes the making, manufacturing, producing, collecting, extracting, processing, storing, transporting, delivering, preparing, treating, preserving, packing, cooking, thawing, serving or displaying of food.

[1.3] *omitting from clause 2, paragraph (d) in the definition of package, substituting –*

- (d) transportation vehicles; or
- (e) a vending machine; or
- (f) a hamper; or
- (g) food served on a covered plate, cup, tray or other food container in prisons, hospitals or other similar institutions listed in the Table to clause 8 of Standard 1.2.1.

[2] **Standard 1.2.1** of the *Australia New Zealand Food Standards Code* is varied by *substituting –*

## **STANDARD 1.2.1**

### **APPLICATION OF LABELLING AND OTHER INFORMATION REQUIREMENTS**

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#### **Purpose**

This Standard sets out the application of general labelling and other information requirements contained in Part 1.2 and labelling and information requirements specific to certain foods in Chapter 2 of this Code. This Part sets out the labelling requirements for food for sale and information that must be provided in conjunction with the sale of certain foods, where labelling is not required. Food Product Standards in Chapter 2 may impose additional labelling and information requirements for specific classes of food.

#### **Table of Provisions**

1	Interpretation
2	Labelling of food for retail sale or for catering purposes
3	Labelling of food not for retail sale etc.
4	Provision of information in relation to food etc.
5	Labelling of food for catering purposes
6	Provision of information in relation to food for catering purposes
7	Labelling of food supplied to, or by delivered meals organisations
8	Types of other similar institutions

#### **Clauses**

##### **1 Interpretation**

In this Part –

**food for catering purposes** includes food supplied to catering establishments, restaurants, canteens, schools, hospitals, and institutions where food is prepared or offered for immediate consumption.

**food for retail sale** includes food at the time it is manufactured or otherwise prepared, or distributed, transported or stored prior to retail sale, where the food is not intended for further processing, packaging or labelling.

**intra company transfer** means a transfer of food between elements of a single company, between subsidiaries of a parent company or between subsidiaries of a parent company and the parent company.

**small package** means a package with a surface area of less than 100 cm<sup>2</sup>.

**transportation outer** means a container or wrapper which encases packaged or unpackaged foods for the purpose of transportation and distribution and which is removed before the food is used or offered for retail sale or which is not taken away by the purchaser of the food.

## **1A Application**

Despite subclause 1(2) of Standard 1.1.1, the definition of ‘food for retail sale’ commences and applies exclusively from the date of gazettal.

## **2 Labelling of food for retail sale**

(1) Subject to subclauses (2) and (4), food for retail sale must bear a label setting out all the information prescribed in this Code, except where –

- (a) the food is other than in a package; or
- (b) the food is in an inner package not designed for individual sale. Despite this, individual portion packs in a container or wrapper with a surface area of 30 cm<sup>2</sup> or greater must bear a label containing information in accordance with clauses 3 and 4 of Standard 1.2.3; or
- (c) the food is made and packaged on the premises from which it is sold; or
- (d) the food is packaged in the presence of the purchaser; or
- (e) the food is whole or cut fresh fruit and vegetables, except sprouting seeds or similar products, in packages that do not obscure the nature or quality of the fruit or vegetables; or
- (f) the food is delivered packaged, and ready for consumption, at the express order of the purchaser; or
- (g) the food is sold at a fund raising event.

(2) Despite subclause (1), food for retail sale must comply with any requirements specified in –

- (a) subclauses 1(1) and (2) of Standard 1.2.2 – Food Identification Requirements; and
- (b) subclauses 2(2), 3(2), 4(2) and 5(2) of Standard 1.2.3 – Mandatory Warning and Advisory Statements; and
- (c) paragraph 2(1)(a) and subclause 2(2) of Standard 1.2.5 – Date Marking of Food; and
- (d) Standard 1.2.6 – Directions for Use and Storage; and
- (e) subclauses 4(2) and 4(3) of Standard 1.2.8 – Nutrition Information Requirements; and
- (f) subclause 2(3) of Standard 1.2.10 – Characterising Ingredients and Components of Food; and
- (g) subclauses 2(2) and 2(3) of Standard 1.2.11 – Country of Origin Requirements (Australia only); and
- (h) subclause 4(3) of Standard 1.5.2 – Food produced using Gene Technology; and
- (i) clause 6 of Standard 1.5.3 – Irradiation of Food; and
- (j) subclause 4(3) and clauses 5, 6, and 10 of Standard 2.2.1 – Meat and Meat Products; and

- (k) clause 3 of Standard 2.2.3 – Fish and Fish Products; and
- (l) subclause 3(2) of Standard 2.6.3 – Non-Alcoholic Beverages and Brewed Soft Drinks; and
- (m) subclause 3(5) of Standard 2.6.4 – Formulated Caffeinated Beverages; and
- (n) subclauses 3(1), 3(2), 3(3) and 3(4) of Standard 2.9.4 – Formulated Supplementary Sports Foods.

(3) Paragraph 2(1)(f) of this Standard does not apply to food sold from a vending machine.

(4) Where food is sold in a hamper –

- (a) subclause 2(1) does not apply; and
- (b) a package of food must bear a label setting out all of the information prescribed in this Code; and
- (c) unpackaged food must be accompanied with documentation setting out the information prescribed in this Code.

**Editorial note:**

For the purposes of paragraph 2(4)(c) the information may be within, or attached to the outer of the hamper.

**3 Labelling of food not for retail sale etc.**

(1) Subject to subclause (2), food –

- (a) not for retail sale; or
- (b) not for catering purposes; or
- (c) supplied as an intra company transfer;

must bear a label containing the information prescribed in Standard 1.2.2, except where the –

- (d) food is other than in a package; or
- (e) food is in an inner package or packages contained in an outer package where the label on the outer package includes the information prescribed in Standard 1.2.2; or
- (f) food is in a transportation outer and the information prescribed in Standard 1.2.2 is clearly discernable through the transportation outer on the labels on the packages within.

(2) The information prescribed in clause 3 of Standard 1.2.2 is not required to be on the label on a food where that information is provided in documentation accompanying that food.

**4 Provision of information in relation to food not for retail sale etc.**

(1) Where a purchaser or relevant authority has so requested, a package of food which is –

- (a) not for retail sale; or

- (b) not for catering purposes; or
- (c) supplied as an intra company transfer;

must be accompanied by sufficient information in relation to that food to enable the purchaser to comply with the –

- (d) compositional requirements of this Code; and
- (e) labelling or other declaration requirements of this Code.

(2) The information referred to in subclause (1) must be supplied in writing where the relevant authority or purchaser has so requested.

## **5 Labelling of food for catering purposes**

(1) Subject to subclause (2), food for catering purposes must bear a label setting out all of the information prescribed in –

- (a) clauses 1 and 2 of Standard 1.2.2 – Food Identification Requirements; and
- (b) Standard 1.2.3 – Mandatory Warning and Advisory Statements and Declarations; and
- (c) Standard 1.2.5 – Date Marking of Food; and
- (d) Standard 1.2.6 – Directions for Use and Storage; and
- (e) Standard 1.2.11 – Country of Origin Requirements (Australia only).

(2) Subclause (1) does not apply to food –

- (a) other than in a package; or
- (b) whole or cut fresh fruit and vegetables, except sprouting seeds or similar products, in packages that do not obscure the nature or quality of the fruit or vegetables.

## **6 Provision of information in relation to food for catering purposes**

(1) Subject to subclause (2), information prescribed in this Code, other than that prescribed in subclause 5(1), is not required to be on the label of food for catering purposes where that information is provided in documentation.

(2) The information prescribed in clause 3 Standard 1.2.2 is not required to be on the label of food for catering purposes where that information is provided in documentation accompanying that food.

(3) Where food for catering purposes is not required to bear a label, that food must be accompanied by documentation containing all of the information prescribed in subclause 5(1) and clause 3 of Standard 1.2.2.

(4) Where a purchaser or relevant authority has so requested, food which is for catering purposes, must be accompanied by sufficient information in relation to that food to enable the purchaser to comply with the –

- (a) compositional requirements of this Code; and

- (b) labelling or other declaration requirements of this Code.

## **7 Labelling of packaged meals supplied to, or by delivered meal organisations**

(1) Clauses 2 and 5 of this Standard do not apply to packaged meals supplied to, or by delivered meal organisations.

(2) Packaged meals supplied by delivered meal organisations must bear a label setting out all the information prescribed in –

- (a) Standard 1.2.2 – Food Identification Requirements; and
- (b) Standard 1.2.3 – Mandatory Advisory Statements and Declarations; and
- (c) Standard 1.2.5 – Date Marking of Packaged Food; and
- (d) Standard 1.2.6 – Directions for Use and Storage.

(3) Packaged meals prepared by food businesses and supplied to delivered meal organisations must bear a label setting out all the requirements in subclause (2).

(4) For the purposes of subclause (3), a food business means a business, enterprise or activity that involves –

- (a) the handling of food intended for sale; or
- (b) the sale of food;

regardless of whether the business, enterprise or activity concerned is of a commercial, charitable or community nature or whether it involves the handling or sale of food on one occasion.

## **8 Types of other similar institutions**

(1) The facilities listed in Column 1 of the Table to this clause are other similar institutions for the purposes of Standard 1.1.1 and Part 1.2 of this Code.

**Table to clause 8**

<b>Column 1</b>	<b>Column 2</b>
<b>Facility</b>	<b>Definition</b>
Acute care hospitals	<p>Establishments which provide at least minimal medical, surgical or obstetric services for inpatient treatment or care, and which provide round-the-clock comprehensive qualified nursing services as well as other necessary professional services. Most patients have acute conditions or temporary ailments and the average stay per admission is relatively short. Acute care hospitals include:</p> <ul style="list-style-type: none"> <li>(a) Hospitals specialising in dental, ophthalmic aids and other specialised medical or surgical care;</li> <li>(b) Public acute care hospitals;</li> <li>(c) Private acute care hospitals;</li> <li>(d) Veterans' Affairs hospitals.</li> </ul>

Column 1	Column 2
Facility	Definition
Psychiatric hospitals	Establishments devoted primarily to the treatment and care of inpatients with psychiatric, mental or behavioural disorders including any:  (a) Public psychiatric hospital; (b) Private psychiatric hospital.
Nursing homes for the aged	Establishments which provide long-term care involving regular basic nursing care to aged persons and including any:  (a) Private charitable nursing home for the aged; (b) Private profit nursing home for the aged; (c) Government nursing home for the aged.
Hospices	Freestanding establishments providing palliative care to terminally ill patients, including any:  (a) Public hospice; (b) Private hospice.
Same day establishments for chemotherapy and renal dialysis services	Including both the traditional day centre/hospital that provides chemotherapy and/or renal dialysis services and also freestanding day surgery centres that provide chemotherapy and/or renal dialysis services including any:  (a) Public day centre/hospital (b) Public freestanding day surgery centre (c) Private day centre/hospital (d) Private freestanding day surgery centre that provides those services.  Day centres/ hospitals are establishments providing a course of acute treatment on a full-day or part-day non- residential attendance basis at specified intervals over a period of time.  Freestanding day surgery centres are hospital facilities providing investigation and treatment for acute conditions on a day-only basis.
Respite care establishments for the Aged	Establishments which provide short-term care including personal care and regular basic nursing care to aged persons.
Same-day aged care establishments	Establishments where aged persons attend for day or part-day rehabilitative or therapeutic treatment.
Low care aged care establishments	Establishments where aged persons live independently but on-call assistance, including the provision of meals, is provided if needed.

[3] *Standard 1.2.2 of the Australia New Zealand Food Standards Code is varied by –*

[3.1] *omitting the Purpose, substituting –*

This Standard requires that certain information must be included on the label on a food in order to be able to identify the food in question. Where the food is unpackaged it is required to be displayed on or in connection with the food, or provided to the purchaser upon request. The labels on a package of food for retail sale, other than in the circumstances listed in Standard 1.2.1 must include, in addition to the information prescribed in this Standard, the information prescribed elsewhere in Part 1.2 of this Code.

[3.2] *omitting subclause (2) and the Editorial note, substituting –*



- (2) Where the food is displayed for retail sale other than in a package –
- (a) the prescribed name of the food, where the name of a food is declared in this Code to be a prescribed name; and
  - (b) in any other case, a name or a description of the food sufficient to indicate the true nature of the food;

must be –

- (c) displayed on or in connection with the display of the food; or
- (d) provided to the purchaser upon request.

(3) For the purposes of paragraph (1)(b), the definitions of certain foods as set out in Chapter 2 of this Code, do not of themselves establish the name of the food.

**Editorial note:**

For example, the definitions for –

- 1. Bread in Standard 2.1.1
- 2. Fermented milk in Standard 2.5.3
- 3. Ice cream in Standard 2.5.6

[3.3] *omitting clause 3 and the Editorial note, substituting –*

(1) The label on a package of food must include the name and business address in Australia or New Zealand, of the supplier of the food.

(2) A vending machine from which food is sold must clearly display in a prominent place on, or in the vending machine, the name and business address in Australia or New Zealand, of the supplier of the food.

(3) The label on a hamper must include the name and business address in Australia or New Zealand, of the supplier of the food.

**Editorial note:**

‘Supplier’ is defined in Standard 1.1.1 to include the packer, manufacturer, vendor or importer of the food in question.

[4] *Standard 1.2.5 of the Australia New Zealand Food Standards Code is varied by –*

[4.1] *omitting the heading and Purpose, substituting –*

## STANDARD 1.2.5

### DATE MARKING OF FOOD

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#### Purpose

This Standard prescribes a date marking system for food and the form in which those foods must be date marked. The Standard requires food, with some exceptions, to be date marked, and prohibits the sale of food after the expiration of the use-by date, where such a date mark is required. In particular, clause 2 of this Standard sets out the circumstances in which a use-by date must be used instead of a best-before date.

[4.2] *omitting the Editorial note immediately after subclause 2(1), and subclause 2(2), substituting –*

- (2) Where the food is displayed for retail sale other than in a package its use – by date must be –
- (a) displayed on, or in connection with the display of the food; or
  - (b) provided to the purchaser upon request.

#### **Editorial note:**

FSANZ's *Guide to the Use of 'Use-by' and 'Best-Before' Dates for Food Manufacturers* provides guidance on paragraphs 2(1)(a) and (b).

Standard 1.2.1 sets out the exemptions to the general labelling requirements in this Code, and provides a definition of 'small package'.

- (3) The label on a package of bread with a shelf life less than 7 days, may include instead of a best-before date –
- (a) its baked-on date; or
  - (b) its baked-for date.

[5] *Standard 1.2.11 of the Australia New Zealand Food Standards Code is varied by omitting subclause 1(3), substituting –*

- (3) This Standard does not apply to food sold to the public by restaurants, canteens, schools, caterers or self-catering institutions, prisons, hospitals or other similar institutions listed in the Table to clause 8 of Standard 1.2.1 where the food is offered for immediate consumption.

## Standard 1.2.1

### Application of Labelling and Other Information Requirements

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#### Purpose

This Standard sets out the application of general labelling and other information requirements contained in Part 1.2. and labelling and information requirements specific to certain foods in Chapter 2 of this Code. This Part sets out the labelling requirements for food for sale and information that must be provided in conjunction with the sale of certain foods, where labelling is not required. Food Product Standards in Chapter 2 may impose additional labelling and information requirements for specific classes of food.

#### Table of Provisions

- 1 Interpretation
- 2 Labelling of food for retail sale or for catering purposes
- 3 Labelling of food not for retail sale etc.
- 4 Provision of information in relation to food etc.

#### Clauses

##### 1 Interpretation

In this Part –

**foods for catering purposes** means those foods for use in restaurants, canteens, schools, caterers or self catering institutions, where food is offered for immediate consumption.

**intra company transfer** means a transfer of food between elements of a single company, between subsidiaries of a parent company or between subsidiaries of a parent company and the parent company.

**retail sale** means sale to the public.

**small package** means a package with a surface area of less than 100 cm<sup>2</sup>.

**transportation outer** means a container or wrapper which encases packaged or unpackaged foods for the purpose of transportation and distribution and which is removed before the food is used or offered for retail sale or which is not taken away by the purchaser of the food.

## **2 Labelling of food for retail sale or for catering purposes**

(1) Subject to subclause (2), food for retail sale or for catering purposes must bear a label setting out all the information prescribed in this Code, except where –

- (a) the food is other than in a package; or
- (b) the food is in inner packages not designed for sale without an outer package, other than individual portion packs with a surface area of no less than 30 cm<sup>2</sup>, which must bear a label containing a declaration of certain substances in accordance with clause 4 of Standard 1.2.3; or
- (c) the food is made and packaged on the premises from which it is sold; or
- (d) the food is packaged in the presence of the purchaser; or
- (e) the food is whole or cut fresh fruit and vegetables, except sprouting seeds or similar products, in packages that do not obscure the nature or quality of the fruit or vegetables; or
- (f) the food is delivered packaged, and ready for consumption, at the express order of the purchaser; or
- (g) the food is sold at a fund raising event.

(2) Notwithstanding subclause (1), food for retail sale or for catering purposes must comply with any requirements specified in –

- (a) subclauses 2(2), 3(2), 4(2) and 5(2) of Standard 1.2.3; and
- (b) Standard 1.2.6; and
- (c) subclauses 4(2) and 4(3) of Standard 1.2.8; and
- (d) subclause 2(3) of Standard 1.2.10; and
- (e) subclauses 2(2) and 2(3) of Standard 1.2.11; and
- (f) subclause 4(3) of Standard 1.5.2; and
- (g) clause 6 of Standard 1.5.3; and
- (h) subclause 4(3) and clauses 5, 6, and 10 of Standard 2.2.1; and
- (i) clause 3 of Standard 2.2.3; and
- (j) subclause 3(2) of Standard 2.6.3; and
- (k) subclauses 3(3) and 3(4) of Standard 2.6.4; and
- (l) subclauses 3(1), 3(2), 3(3) and 3(4) of Standard 2.9.4.

## **3 Labelling of food not for retail sale etc.**

(1) Subject to subclause (2), food –

- (a) not for retail sale; or
- (b) not for catering purposes; or
- (c) supplied as an intra company transfer;

must bear a label containing the information prescribed in clauses 1, 2 and 3 of Standard 1.2.2, except where the –

- (d) food is other than in a package; or
- (e) food is in an inner package or packages contained in an outer package where the label on the outer package includes the information prescribed in clauses 1, 2 and 3 of Standard 1.2.2; or

- (f) food is in a transportation outer and the information prescribed in clauses 1, 2 and 3 of Standard 1.2.2 is clearly discernable through the transportation outer on the labels on the packages within.

(2) The information prescribed in clause 3 of Standard 1.2.2 is not required to be on the label on a food where that information is provided in documentation accompanying that food.

#### **4 Provision of information in relation to food not for retail sale etc.**

(1) Where a purchaser or relevant authority has so requested, a package of food which is –

- (a) not for retail sale; or
- (b) not for catering purposes; or
- (c) supplied as an intra company transfer;

must be accompanied by sufficient information in relation to that food to enable the purchaser to comply with the –

- (d) compositional requirements of this Code; and
- (e) labelling or other declaration requirements of this Code.

(2) The information referred to in subclause (1) must be supplied in writing where the relevant authority or purchaser has so requested.

## Overview of proposed labelling requirements for food for retail sale and food for catering purposes

Food for retail sale										
	Name of the food	Lot id	Supplier details	Mandatory warning & advisory statements & declarations	Ingredient list	Date marking	Directions for use and storage	Nutrition labelling	Percentage Labelling	Country of origin labelling (in Australia)
<b>Inner Portion Packs</b>	No	No	No	Yes, where an inner portion pack is 30 cm <sup>2</sup> or greater, declarations in accordance to clause 3 & 4 of Standard 1.2.3 required.	No	No	No	No	No	No
<b>Wrapped small package items</b>	Yes	No	Yes	Yes	No	Yes, only where a use-by-date is required.	Yes, where applicable	No. Where no nutrition claim is made.	No	Yes
<b>Food sold at fundraising events<sup>+</sup></b>	No*	No*	No*	No*	No*	No*	No*	No*	No*	No*

<sup>+</sup> this is not taking into account the information requirements for these foods when the exemption applies, see the information requirements for food for retail sale for more information.

\* where the event meets requirements of definition of fundraising events & the editorial note.

<b>Food for retail sale</b>										
<b>Name of the food</b>	<b>Lot id</b>	<b>Supplier details</b>	<b>Mandatory warning &amp; advisory statements &amp; declarations</b>	<b>Ingredient list</b>	<b>Date marking</b>	<b>Directions for use and storage</b>	<b>Nutrition labelling</b>	<b>Percentage Labelling</b>	<b>Country of origin labelling (in Australia)</b>	
<b>Outside of vending machine</b>	No	No	Yes	No	No	No	No	No	No	No
<b>Food items within a vending machine<sup>^</sup></b>	Yes <sup>#</sup>	Yes <sup>#</sup>	Yes <sup>#</sup>	Yes <sup>#</sup>	Yes <sup>#</sup>	Yes <sup>#</sup>	Yes, where applicable <sup>#</sup>	Yes <sup>#</sup>	Yes, where applicable <sup>#</sup>	Yes <sup>#</sup>
<b>Outside of a hamper</b>	No	No	Yes	No	No	No	No	No	No	No
<b>Food items within a hamper</b>	Yes	Yes	Yes	Yes	Yes	Yes	Yes, where applicable	Yes	Yes, where applicable	Yes
<b>Food items wrapped at the retail outlet</b>	Yes <sup>#</sup>	Yes <sup>#</sup>	Yes <sup>#</sup>	Yes <sup>#</sup>	Yes <sup>#</sup>	Yes <sup>#</sup>	Yes, where applicable <sup>#</sup>	Yes <sup>#</sup>	Yes, where applicable <sup>#</sup>	Yes <sup>#</sup>
<b>Packaged food items sold at a satellite retail outlet</b>	Yes <sup>#</sup>	Yes <sup>#</sup>	Yes <sup>#</sup>	Yes <sup>#</sup>	Yes <sup>#</sup>	Yes <sup>#</sup>	Yes, where applicable <sup>#</sup>	Yes <sup>#</sup>	Yes, where applicable <sup>#</sup>	Yes <sup>#</sup>
<b>Milk sold in glass bottle</b>	Yes <sup>#</sup>	Yes <sup>#</sup>	Yes <sup>#</sup>	Will be met by the name of the food	No	Yes <sup>#</sup>	No	Yes <sup>#</sup>	No, not applicable	Yes <sup>#</sup>

<sup>^</sup> exemption 2(1)(f) *the food is delivered packaged, and ready for consumption, at the express order of the purchaser*, can not apply to these foods

<sup>#</sup> where the food does not meet the requirements of an exemption.

Food for retail sale										
	Name of the food	Lot id	Supplier details	Mandatory warning & advisory statements & declarations	Ingredient list	Date marking	Directions for use and storage	Nutrition labelling	Percentage Labelling	Country of origin labelling (in Australia)
<b>Information requirements where exempt from bearing a label</b>	Yes	No	No	Yes	No	Yes, only where use-by-date would normally be required	Yes, where applicable	Yes, where a nutrition claim is made	Yes	Yes

Food for catering purposes										
	Name of the food	Lot id	Supplier details	Mandatory warning & advisory statements & declarations	Ingredient list	Date marking	Directions for use and storage	Nutrition labelling	Percentage Labelling	Country of origin labelling (in Australia)
<b>General labelling requirements</b>	Yes <sup>√</sup>	Yes <sup>√</sup>	Yes <sup>*</sup>	Yes <sup>√</sup>	Yes <sup>*</sup>	Yes <sup>√</sup>	Yes <sup>√</sup>	Yes <sup>*</sup>	No.	Yes <sup>√</sup>
<b>Information requirements where exempt from bearing a label</b>	Yes <sup>*</sup>	Yes <sup>*</sup>	Yes <sup>*</sup>	Yes <sup>*</sup>	No, unless requested.	Yes <sup>*</sup>	Yes <sup>*</sup>	No, unless requested.	No.	Yes <sup>*</sup>

<sup>√</sup> This information must be born on the label attached to the food.

<sup>\*</sup> This information may be provided in documentation



**Packaged meals provided by Delivered Meal Organisations (DMOs)**

	<b>Name of the food</b>	<b>Lot id</b>	<b>Supplier details</b>	<b>Mandatory warning &amp; advisory statements &amp; declarations</b>	<b>Ingredient list</b>	<b>Date marking</b>	<b>Directions for use and storage</b>	<b>Nutrition labelling</b>	<b>Country of origin labelling (in Australia)</b>	<b>Health claims</b>
<b>Labelling requirements</b>	Yes	No	Yes	Yes	No	Yes	Yes	No	No	Does not need to comply with the proposed standard.

**Meals provided in prisons, hospitals and similar institutions**

	<b>Name of the food</b>	<b>Lot id</b>	<b>Supplier details</b>	<b>Mandatory warning &amp; advisory statements &amp; declarations</b>	<b>Ingredient list</b>	<b>Date marking</b>	<b>Directions for use and storage</b>	<b>Nutrition labelling</b>	<b>Country of origin labelling (in Australia)</b>	<b>Health claims</b>
<b>Labelling requirements<sup>+</sup></b>	No	No	No	No	No	No	No	No	No	Does not need to comply with the proposed standard.

<sup>+</sup> this is not taking into account the information requirements for these foods when any exemption applies for food for retail sale, see the information requirements for food for retail sale for more information.

## Summary of submissions from the Initial Assessment Report

FSANZ received 56 submissions in response to the Initial Assessment Report on Proposal P272 – Labelling Requirements for Food for Catering Purposes & Retail Sale, during the public consultation period of 15 December 2004 to 23 February 2005. A summary of submitter comments is provided in the table below.

The issues considered in this Proposal, fall into four broad categories:

- the labelling of food for retail sale including the limitations of the term ‘food for retail sale’ within the context of clause 2; the application of the exemptions in subclause 2(1); and the information requirements in subclause 2(2) which apply when food for retail sale is exempt from labelling;
- the labelling of food for catering purposes including the current definition in clause 1; the requirement for food for catering purposes to bear a label containing the information prescribed in the Code; the appropriateness of the
- exemptions in subclause 2(1); and the appropriateness of the information requirements in subclause 2(2);
- the labelling requirements for packaged meals provided by delivered meals organisations (DMOs); and
- the labelling requirements for **meals provided in hospitals and similar institutions.**

Issue	Submission Comments
Additive and preservative labelling	<ul style="list-style-type: none"> <li>• 12 private submitters request that the 5% loophole be closed so that manufacturers disclose 100% of ingredients to allow informed consumer choice.</li> <li>• Requests listing flavour enhancer 635 and listing cultured whey powder as preservative 282. Suggests these substances should be prohibited. <i>Private, Jenny Clifton.</i></li> <li>• Request that more information than ‘flavour’ be required. <i>Private, Trina MacAdam</i></li> <li>• Requests numerical labelling of all forms of processed (free) glutamate. <i>Private, Helen Weir.</i></li> <li>• Requests banning antioxidants 319/320 as Europe have done so. Believes meat that has been cryovacked should be labelled as such, stating it contains high levels of amines. <i>Private, Teresa Bowley.</i></li> </ul>

Issue	Submission Comments
General Comments	<ul style="list-style-type: none"> <li>• Concerned that any change in regulation will result in decreased consumer access to information on irradiated and genetically modified food. Believes that food that falls within current labelling exemptions (fruit, meat carcasses, herbs) should still be clearly labelled as irradiated products. Believes all institutional food that contains irradiated or genetically modified product should contain a warning statement. <i>Food Irradiation Watch.</i></li> <li>• Supports clarification of Standard 1.2.1. <i>Heinz Wattie's NZ &amp; Heinz Australia</i></li> <li>• Believes the underlying principles determining the way food for retail sale is regulated should apply equally to each of the four areas covered in the Proposal. <i>New Zealand Retailers Association.</i></li> <li>• Suggests a new approach to labelling that focuses on the concept of a 'consumer package', irrespective of the means by which that package is delivered to the consumer. <i>George Weston Foods Limited.</i></li> <li>• Believes there is not a clear line between food for retail sale and food for catering purposes leading to considerable confusion in the foodservice industry. Highlighted that one product can fall into both categories. <i>Australian Cook Chill Council.</i></li> <li>• Seeks clarification as to whether the addition of supplements to juices made at juice bars is allowable under the Code and the labelling requirements of these products. Proposes that, similar to the reference to advisory statements for formulated caffeinated beverages, subclause 2(2) of Standard 1.2.1 be amended to ensure that information required on a label by Standard 2.9.4 is also required to be displayed in connection with ready to eat products. <i>Department of Health SA.</i></li> <li>• Believes that regulatory impact statements that demonstrate a positive cost benefit analysis for industry should support any changes. Notes industry surveys conducted after the change to the labelling regime for packaged goods in 2002 quantified the cost to the Australian food industry in adopting these changes was in excess of \$400 million. Comments 'our own small business survey confirmed the cost of compliance averaged approx \$60 000 per business'. <i>Chamber of Commerce and Industry of Western Australia.</i></li> <li>• Believes difficulties with interpretation of Standard 1.2.1 are the results of inclusion of both food for retail and food for catering purposes in the application of Clause 2. <i>Chamber of Commerce and Industry of Western Australia.</i></li> </ul>
The format of the Initial Assessment Report	<ul style="list-style-type: none"> <li>• Believes the Proposal was difficult to read with inconsistent options in various sections. Support a questionnaire format in the future. <i>Fonterra Co-operative Group Ltd.</i></li> <li>• Believes the Proposal to be cumbersome and difficult to draw key issues from. <i>Food Technology Association of Western Australia Inc.</i></li> <li>• Believes the IARs length and complexity makes it difficult to read and understand. <i>Hospitality Association of New Zealand.</i></li> <li>• Believes the Proposal is too wordy and badly written making it difficult to identify relevant questions, suggests a questionnaire. <i>PB Foods Ltd.</i></li> <li>• Believes the document was difficult to follow. <i>Queensland Meals on Wheels Association Inc.</i></li> </ul>

Issue	Submission Comments
<b>Food for Retail Sale</b>	
Responsibility for Labelling (A496)	<ul style="list-style-type: none"> <li>• Supports a review of the term ‘food for retail sale’. States that further information is not always freely available and can require much time and effort to track down. <i>Australian Cook Chill Council</i>.</li> <li>• In-principal supports suggestion by NSW Health, suggests minor changes: (1) to be clear that the manufacturer is not responsible for labelling when packages that are not intended for retail sale are sold to consumers by retailers, (2) the manufacturers often pack house brands and private labels, in these cases the owners of the labels should be responsible for labelling, (3) for imported foods it should be the responsibility of the importer to ensure labelling is correct. Suggests the name of the ‘supplier’ on the retail pack should be responsible, but notes this would need further investigation. <i>Australian Food and Grocery Council</i>.</li> <li>• Opposed to placing additional liability on the manufacturer. Believes the proposed places manufacturers in an uncontrollable position of liability. <i>Australian &amp; New Zealand Baking Industry Associations</i></li> <li>• Supports NSW Health suggestion. Believes the task of checking labelling compliance is too onerous for large retailers with thousands of products. <i>Coles Myer</i>.</li> <li>• Supports suggestion by NSW Health. Support rewording of ‘food for retail sale and food intended for retail sale’. <i>Department of Health SA</i>.</li> <li>• Supports a review of the term ‘food for retail sale’. State manufacturers can only be responsible where they package and label products intended for retail sale. Where product is supplied and re-packed by a third party, states the third party must be responsible. Do not believe that there will be any cost issues as manufacturers already label most products. Comments that clause 4 of Standard 1.2.1 relates to a manufacturer providing information on a package of a food that is NOT intended for retail sale or catering purposes and therefore does not apply to the issue raised by NSW Health of smaller retailers being unable to convert information provided. <i>Cadbury Schweppes Pty Ltd</i>.</li> <li>• States that information provided by manufacturers/suppliers to retailers may be in any form. Hence states that the existing provisions under clause 2 should be retained, but an editorial note could be used to clarify the responsibility for labelling. Believes retailers would not be sufficiently familiar with the product or the manufacturing processes to verify labelling. States where products are supplied in bulk to a third party and the product is repacked intact, it is the third party that must be responsible for the accuracy of the labelling. <i>Confectionery Manufacturers of Australasia Limited</i>.</li> <li>• Supports that labelling responsibility be directed towards the manufacturers. Comments that knowledge &amp; availability of information to retail shops is very limited. Comments ‘we ensure that correct labelling information is supplied with the product before it leaves the factory. The retail site is then expected to adhere the stickers to the product once it is put on display’. <i>Cookie Man Pty Ltd</i>.</li> </ul>

Issue	Submission Comments
Responsibility for Labelling (A496) cont.	<ul style="list-style-type: none"> <li>• Supports the need to maintain separation between food for retail sale and food for catering purposes. Believes the Code should place a greater onus on manufacturers to correctly label all food that is manufactured and packed for retail sale. Stating this should pose no greater costs on manufacturers and indeed should save manufacturers, retailers and enforcement agencies money by avoiding subsequent labelling corrections. <i>Department of Health and Human Services (Tasmania)</i>.</li> <li>• Considers it necessary to require labelling of packaged food provided to caterers, restaurants etc where those businesses intend to sell the product. Supports if clarification of the Standard were to achieve the above. <i>Department of Human Services Victoria</i>.</li> <li>• Supports suggestion by NSW Health. State the onus should be on the manufacturer of the food, whether for retail sale or catering purposes. Suggests the definition of ‘retail sale’ be amended to clarify the broadness of the term ‘sale’ and include examples in an editorial note or similar (e.g. food sold in a restaurant setting, hospital or airline). <i>Dietitians Association of Australia</i>.</li> <li>• Tentatively supports the intention to ensure manufacturers also bear responsibility. Supports the wording ‘food for retail sale and food intended for retail sale’. Believe there also needs to be the ability to take action against an importer. Supports a guidance note that addresses the responsibility of labelling compliance. <i>Environmental Health Unit of Queensland Health</i>.</li> <li>• Supports <i>status quo</i> and believe the responsibility for labelling needs to remain with the retailer. <i>Food Technology Association of Western Australia Inc.</i></li> <li>• Support the suggestion by NSW Health. <i>Hospitality Association of New Zealand</i>.</li> <li>• Believes it is not appropriate for manufacturers to have responsibility for full labelling of products that will undergo further processing/packaging before they are sold to the public. States that generally if a manufacturer prepares the final packaging and labelling it is on behalf and at the direction of the retailer. Believes that where a manufacturer does not prepare the final packaging and labelling, labelling should only be required to include name, address and lot identification as outlined in Standard 1.2.2. Estimates the cost to Mainland Products Ltd of fully labelling those products that are currently exempt under Standard 1.2.1 to be NZ\$1 million. <i>Fonterra Co-operative Group Ltd</i>.</li> <li>• Supports suggestion by NSW Health. States it is not feasible for a retailer to determine whether the contents of a package have been correctly labelled. Believes the existing requirement places an unfair burden on retailers. Rejects the argument that the proposed change may cloud the existing distinction between food for catering purposes and food for retail sale. Notes that items that are packaged for sale to the consumer are clearly distinguishable from products intended for catering purposes as the products are sold through two separate and distinct supply channels. <i>Foodstuffs (NZ) Ltd</i>.</li> <li>• Strongly supports a review of the term ‘food for retail sale’. Considers that the costs of dealing directly with the manufacturer would be significantly less for the industry in general, in particular retailers. States that enforcement costs would also be reduced. <i>NSW Food Authority</i>.</li> </ul>

Issue	Submission Comments
Responsibility for Labelling (A496) cont.	<ul style="list-style-type: none"> <li>• Supports <i>status quo</i>. <i>PB Foods Ltd</i>.</li> <li>• Believes amending the definition would undermine the structure of the standard (i.e. food for retail sale, food for catering purposes and ‘not for retail sale’). Comments that the proposed definition would make it difficult to draw a distinction between food for retail sale and food for catering purposes. Comments that as all food is ultimately sold to the public, a clear definition of ‘intended for’ would be needed to ensure food currently covered by clause 3 is not also caught as food intend for sale to the public. Believes that the Proposal contains a lack of factual evidence as to the extent of the problem by enforcement agencies and states that it appears the problem is limited to small retailers. Notes that most suppliers currently see it as their responsibility to fully label products because they do not want another party interfering with the appearance of the label/product. Comments that whilst a manufacturer might supply a food in one packaging format, retailers may sell in another format, in such circumstances manufacturers should bear no responsibility for labelling infringement. Believes an alternative approach for ensuring the retailer obtains any necessary information should be investigated, e.g. strengthening of requirements to provide information when requested. Comments that the suggested change should only be made after a more exhaustive review. <i>Food &amp; Beverage Importers Association</i>.</li> <li>• Supports a review of the term ‘food for retail sale’. Believes that clearer provisions in relation to the onus being on the manufacturer to provide the information prescribed in the Code will enhance compliance and make a level playing field between larger and smaller retailers. Suggests splitting ‘food for retail sale’ and ‘food for catering purposes’ into separate clauses to allow for more appropriate listings of exemptions. <i>National Heart Foundation of Australia</i>.</li> <li>• Not aware of problems caused by the current wording of clause 2 of Standard 1.2.1, which does not specify who is responsible for ensuring that retail and catering foods are labelled correctly. States in practise retailers are ultimately responsible but the NZ Food Act places the onus for compliance with all parties that sell food, including manufacturers, importers and retailers. Supports Option 2 because believe this would clearly show that both suppliers and retailers have responsibility. Believes it should be clear that this wording does not prevent suppliers from selling food that is intended to be labelled by the retailer. Comments that retailers should be able to choose to label food, and any such labelling would clearly be their responsibility. <i>New Zealand Food Safety Authority</i>.</li> <li>• Not aware of major concerns with the current wording. Prefer to not change the Standard unless these are issues of food safety and public confidence. Notes there may be merit in requiring manufacturers to take greater responsibility for labelling but that retailers in New Zealand are still required to accept final responsibility under the Fair Trading Act (leading to further confusion). Supports an EAG on this matter with representation of retailers from both large and smaller sectors. <i>New Zealand Retailers Association</i>.</li> </ul>

Issue	Submission Comments
Responsibility for Labelling (A496) cont.	<ul style="list-style-type: none"> <li>• Supports suggestion by NSW Health, but believe the retailer should retain liability if the retailer knowingly sells a non-compliant product. Believes the current regime is unreasonable and unworkable. Disagrees with NSW Health on the matter that small retailers do not have the influence to refuse goods, stating that the small retailer has the strength, and fear of, the law. Believe any costs should fall with the manufacturer. <i>Progressive Enterprises Limited.</i></li> <li>• Supports the proposed option. <i>Quality Food Services.</i></li> <li>• Believes it is the responsibility of the manufacturers to ensure that information provided is accurate and complies with labelling standards. <i>Sydney South West Area Health Service.</i></li> <li>• Supports the onuses for ensuring products are compliant being placed on the manufacturer. Believes an exemption should be made for the situation where the product is purchased in bulk and put into smaller packages by the retailer. Notes the manufacturer's liability in this case should be limited to supplying the information (either through labelling of the bulk container or through commercial documentation). <i>Tegel Foods Ltd.</i></li> <li>• Supports a review of the term 'food for retail sale'. Do not agree with the proposal that the definition of 'food intended for retail sale' should include 'food for catering purposes' as this would mean that any food sold, even as an ingredient for use in a catering establishment would require full labelling even if the subsequent product as sold does not require labelling. <i>Unilever Australasia.</i></li> <li>• Supports suggestion by NSW Health. Note the ability and cost of labelling would be beyond most small catering retailers. <i>West Australian Food Advisory Committee.</i></li> </ul>
General Comments – 'food for retail sale'	<ul style="list-style-type: none"> <li>• Notes that food service providers frequently use retail items as part of their overall meal service, and will therefore be affected by any changes to labelling of food for retail sale. <i>Sydney South West Area Health Service.</i></li> <li>• Considers that for small packaging and limited available print area it is critical that both sides of the packaging fin are available for labelling. Believe subclause 11(1) of Standard 1.1.1 should substitute the word 'obscured' with 'inaccessible'. <i>Australian Food and Grocery Council.</i></li> <li>• Concerns over retailers inability to convey accurate information about allergens to the consumer when this information is available from manufacturers on request and not on a label. <i>Quality Food Services.</i></li> </ul>
Current Exemptions	<ul style="list-style-type: none"> <li>• Believes clarification is required on the intent of clause (f) 'food is delivered packaged, and ready for consumption, at the express order of the purchaser'. Stating 'by choosing an item doesn't it become 'expressly ordered' even if purchased from a supermarket'? Seeks clarification on the requirements of food packaged in a hospital before the 'express order' is received. Seeks clarification on the definition of 'premises' in relation intra-company transfer. <i>Quality Food Services.</i></li> <li>• Supports maintaining current exemptions. Supports investigations into further exemption cases with due consultation. <i>Australian &amp; New Zealand Baking Industry Associations</i></li> </ul>

Issue	Submission Comments
Current Exemptions cont.	<ul style="list-style-type: none"> <li>• Believes that 2(1)(c) ‘food is made and packaged on the premises from which it is sold’ is flawed as it allows a manufacturer to sell directly from their premises without having any responsibility for labelling their products. No concern with retaining all clauses (a) to (g). <i>Cadbury Schweppes Pty Ltd.</i></li> <li>• Does not entirely agree with all the proposed exemptions, but overall support a review of the exemptions. <i>Coles Myer.</i></li> <li>• Believes the current list of exemptions is workable and does not need to be extended. Believes additional exemptions to those items suggested may result in the loss of valuable information to consumers. <i>Department of Health and Human Services (Tasmania).</i></li> <li>• Only food packaged in a hamper appears to warrant consideration for an exemption. <i>Department of Human Services Victoria.</i></li> <li>• Supports a review the exemptions. <i>Dietitians Association of Australia.</i></li> <li>• Tentatively supports a review of the exemptions in subclause 2(1). <i>Environmental Health Unit of Queensland Health.</i></li> <li>• Supports <i>status quo</i> (retain the current requirements in clause 2 in Standard 1.2.1). States that the advantage of the current system is that it puts the onus on all parties who further process food. Believes the vendor of the final product should hold the appropriate information and make it available to the public on request. <i>Fonterra Co-operative Group Ltd.</i></li> <li>• Believes the current exemptions need to be reviewed for clarity, recommend further use of editorial notes and examples. <i>National Heart Foundation of Australia.</i></li> <li>• Believes other problematic areas to be ‘food is packaged but not made on the premises from which it is sold’, such as snack packs and cheese boards put together from service deli, and bulk food or other fresh food departments wanting to cross merchandise. Suggests the definition of ‘made’ on site needs to be clarified (e.g. cooking a chicken, defrosting or slicing a product)? Is it a specific change in either ingredients and/or nutritional information? <i>Foodstuffs (NZ) Ltd.</i></li> <li>• Supports the proposed changes assuming understanding is correct that the current exemptions for ‘food for retail sale’ labelling requirements are not to be removed, but are to be added to, as per the proposal. <i>Hospitality Association of New Zealand.</i></li> <li>• Supports Option 2 (to review the exemptions in subclause 2(1) as they relate to food for retail sale). States that the Authority has previously raised a range of problematic issues through TAG and directly with FSANZ and does not intend to list them again here. Suggests exemptions be considered with both retail and catering in mind. Example, bottled wine delivered to a restaurant is ‘food delivered packaged, and ready for consumption, at the express order of the purchaser’. Believes this is unlikely to be the intention of the exemption. <i>NSW Food Authority.</i></li> <li>• Believes FSANZ should consider labelling of exempted pre-packaged foods with a relatively long shelf life. Noting these may be stored at home for quite some time potentially without traceability, date marking, and directions for use etc.</li> </ul>



Issue	Submission Comments
Current Exemptions cont.	<p>Suggests limiting the exemption to foods that are intended to be consumed on the same day it is purchased. Is aware that some food banks are receiving unlabelled food products from commercial operators. As with food produced for charitable purposes this product is not for sale, but believe safety related information should still be provided. <i>New Zealand Food Safety Authority</i>.</p> <ul style="list-style-type: none"> <li>• Supports reviewing the exemptions and the consideration of the issues set out in paragraph 2.2.3. <i>New Zealand Retailers Association</i>.</li> <li>• Supports maintaining current exemptions and developing further exemptions. <i>Progressive Enterprises Limited</i>.</li> <li>• Supports the retention of the current exemptions for labelling of both retail and catering products. Recommends consideration of additional exemptions. Supports exemptions for certain products, such as milk sold in glass bottles, and that manufacturers have flexibility to provide the information in an alternative format when there are technical difficulties. <i>Unilever Australasia</i>.</li> </ul>
Inner portion pack exemption	<ul style="list-style-type: none"> <li>• No issue with current exemption but would support any simplification of the wording. <i>Australian Cook Chill Council</i>.</li> <li>• States that AFGC members are able to interpret the provision as worded. No objection to clarification. Recommends the words ‘ready to eat’ be inserted to reflect the intention. <i>Australian Food and Grocery Council</i>.</li> <li>• Supports clarifying. Believe rewording should highlight the requirements of the outer package to comply. <i>Australian &amp; New Zealand Baking Industry Associations</i>.</li> <li>• Believes paragraph 2(1)(b) would make more sense if broken down into two or more sentences and if double negatives were not used. <i>Cadbury Schweppes Pty Ltd</i>.</li> <li>• Supports rewording. States some manufacturers have difficulty in interpreting the statement. Suggests addition on definitions for ‘inner packages’ and ‘individual portion packs’. <i>Coles Myer</i>.</li> <li>• Supports. Believes clear definitions are needed for ‘inner package’ and ‘individual portion packs’. <i>Cookie Man Pty Ltd</i>.</li> <li>• Believe the current wording is acceptable but believes greater clarification could result by re-wording or editorial notes. <i>Department of Health and Human Services (Tasmania)</i>.</li> <li>• Believes rewording is not required, suggests further use of editorial notes. <i>Dietitians Association of Australia</i>.</li> <li>• Does not believe rewording is required. <i>Environmental Health Unit of Queensland Health</i>.</li> <li>• Not opposed, but expresses a need for caution to not cause further confusion. <i>Food &amp; Beverage Importers Association</i>.</li> <li>• Agrees that 2(1)(b) requires rewording. <i>NSW Food Authority</i>.</li> <li>• Does not believe it is necessary to reword this paragraph. <i>National Heart Foundation of Australia</i>.</li> <li>• Supports clarifying the clause. <i>New Zealand Food Safety Authority</i>.</li> <li>• Supports reviewing the wording of paragraph 2(1)(b) to remove any ambiguity but do not see any need to extend its current understood scope. <i>New Zealand Retailers Association</i>.</li> </ul>

Issue	Submission Comments
Inner portion pack exemption cont	<ul style="list-style-type: none"> <li>• Supports rewording. Suggest breaking the paragraph into two: (1) the food is in inner packages not designed for sale without an outer package, and is not an individual portion pack (2) individual portion packs not designed for sale without an outer package and with a surface area of no less the 30 cm<sup>2</sup> which must bear a label containing a declaration of certain substances in accordance with clause 4 of standard 1.2.3. <i>Progressive Enterprises Limited</i>.</li> <li>• Believes wording is clear but supports clarification if required. <i>Quality Food Services</i>.</li> <li>• Does not believe the paragraph requires clarification. <i>Tegel Foods Ltd</i>.</li> <li>• Supportive of clarification to include the term ‘ready to eat’ to describe portion packs, if this was the intent of the standard. <i>Unilever Australasia</i>.</li> <li>• Supports rewording to improve clarity. West Australian Food Advisory Committee.</li> </ul>
Pick’n’mix items	<ul style="list-style-type: none"> <li>• Mentions practical limitations on print size and legibility. Suggests providing information on cards displayed in association with dispensing containers and considers it the retailers responsibility to ensure information is displayed and up to date with that provided by manufacturers. Comments that issue also relates to small cheeses. <i>Australian Food and Grocery Council</i>.</li> <li>• Believes that allergen statements should be displayed at point of sale to consumer. Believes current legislation is appropriate in defining small package and allowing appropriate exemptions. <i>Australian &amp; New Zealand Baking Industry Associations</i>.</li> <li>• Believes exemptions for bite-sized items should remain as very difficult to comply with Std 1.2.9 – Legibility Requirements. <i>Confectionery Manufacturers of Australasia Limited</i>.</li> <li>• States the while some small product products are individually wrapped, none are labelled individually but the outer packaging in all cases carries the full mandatory labelling requirements. Comments that where these products are sold onto a third party for reprocessing or repacking sufficient information is provided to enable that third party to properly label their product. Believes that these products should continue to be exempt from all labelling including allergen labelling. Believe the term ‘bite size’ needs to be better defined. <i>Cadbury Schweppes Pty Ltd</i>. Believes this should include ‘bite sized confectionery’. States small surface areas pose difficulties with legibility, notes due to this recalls are generally managed as a blanket recall. Notes that due to the various colours used on the labels of these items, it can be difficult to get sufficient contrast to be readily legible. Comments it is desirable that information is available to consumers and believes that point of sale units are a more viable option for providing this. Suggests other problematic small package items are single serve cheeses, jams, spreads and milks. <i>Coles Myer</i>.</li> <li>• Opposes further extending labelling exemptions to products such. Concerned this creates precedents for other products that manufacturers may claim are difficult to label, or that consumers are perceived to have little demand for labelling. <i>Department of Health and Human Services (Tasmania)</i>.</li> </ul>

Issue	Submission Comments
Pick 'n' Mix items cont.	<ul style="list-style-type: none"> <li>• Supports exemption. Believes mandatory declarations, warning and advisory statements should be displayed in connection with the food. Suggests that 'on request' is not sufficient; given that in practise this information is likely to be difficult for the consumer to get from the retailer. <i>Dietitians Association of Australia.</i></li> <li>• Not aware that current labelling requirements are problematic. <i>Environmental Health Unit of Queensland Health.</i></li> <li>• Suggests flexibility in the provision of information. Suggest where the consumer places items in a bag with a bar code before sale, label information could be displayed on that bag. Suggests as an alternative, when consumers remove the small items from a display carton, that the carton carries the mandatory information. <i>Food &amp; Beverage Importers Association.</i></li> <li>• Believes this is already well covered by Standards that define 'small packages' and/or 'unwrapped food' and does not require further exemption. <i>Food Technology Association of Victoria Inc.</i></li> <li>• Concerned about issues relating to allergen declaration in relation to public health and safety. <i>NSW Food Authority.</i></li> <li>• Supports majority recommendation. <i>Quality Food Services.</i></li> <li>• Notes confectionery often contains potential allergens and therefore the labelling requirements should ensure that information related to ingredients (Standard 1.2.4) and mandatory declarations and warning and advisory statements are readily available to consumers, preferably clearly indicated at point of sale. <i>National Heart Foundation of Australia</i></li> <li>• Believes labelling requirements to be overly onerous and consider restrictions could be eased without compromising consumer safety. States there is compelling rationale for applying this approach to other small packaged items. Believes that when sold from a bulk container, labelling could be displayed if the product contains substances that may produce a severe adverse reaction, believes separate labelling is unlikely to add further value. <i>New Zealand Retailers Association.</i></li> <li>• Supports an exemption. Believes information about the product should be displayed or available on request and that label should still be printed with product name and batch codes for recall purposes. <i>Progressive Enterprises Limited.</i></li> <li>• Believes that not all current requirements are necessary to protect public health and safety (i.e. country of origin). <i>West Australian Food Advisory Committee.</i></li> </ul>
Fundraising Events	<ul style="list-style-type: none"> <li>• Confused over the term 'solely for charitable purposes'. Does this include events run by organisations that employ staff? Supports an exemption for food sold or given away for charitable purposes. <i>Australian Cook Chill Council.</i></li> <li>• Comments that Food Acts only control food for sale and do not apply to food given away for charitable purposes. Requests examples to show the current exemption is insufficient to cover food sold for charitable purposes and how, food given away for charitable purposes falls within the scope of state and territory food legislation. <i>Australian Food and Grocery Council.</i></li> </ul>

Issue	Submission Comments
Fundraising Events cont.	<ul style="list-style-type: none"> <li>• Does not support the provision of further exemptions in this area.. Has not encountered problems with the current requirements for fundraising events. <i>Department of Health and Human Services (Tasmania)</i>.</li> <li>• Supports an exemption for food sold or given away for charitable purposes. Comments that in many cases this may be product that has been damaged and the label destroyed (provided the product can be easily identified and the manufacturer makes the appropriate information available). It was stated that regardless of whether or not the product is going to be sold on a continual basis or if the fundraising is for financial gain, if it is a packaged food (or should be packaged) then it must be labelled with full mandatory information. <i>Cadbury Schweppes Pty Ltd</i>.</li> <li>• Comments ‘fundraising package items we produce meet the full labelling requirements’. <i>Cookie Man Pty Ltd</i>.</li> <li>• Suggests given the difficulties in defining both ‘fundraising’ and ‘event’, that this not be an exemption. Believes putting onus for labelling on the manufacturer will ensure products are labelled. <i>Dietitians Association of Australia</i>.</li> <li>• Suggests the term ‘one-off event’ needs to be better defined. <i>Food Technology Association of Victoria Inc</i>.</li> <li>• Believes the meaning of ‘event’ requires careful consideration. Notes that Victoria had a working definition for the purposes of food safety programs. Not previously considered food given away by charities receiving external funding to be food for sale. Notes the section also refers to ‘together with accommodation, service or entertainment’, which may not be applicable. <i>NSW Food Authority</i>.</li> <li>• States this situation has arisen where community charity groups are applying for tenders to supply food in direct competition to normal businesses. <i>West Australian Food Advisory Committee</i>.</li> <li>• Supports the current exemption for food for sale at bona fide fundraising events, with retention of the current requirements for compliance with health and safety provisions listed in Clause 2(2) of Std 1.2.1. Recommends review of the definition of ‘fundraising events’, believes this should include events held by registered charities. Believes the definition of ‘sale’ needs to be clarified, either by listing a clear definition in the Code or by editorial notes with examples. For instance, does it include the provision of food at events for current or potential donors to the charity? <i>National Heart Foundation of Australia</i>.</li> <li>• Sees no need for substantial change from present regulations. Believes food sold by genuine charities or at genuine charitable events should be exempt from complex labelling requirements. Considers that traders abusing this should first be educated and if necessary enforcement should be taken. <i>New Zealand Retailers Association</i>.</li> <li>• Believes the word ‘event’ refers to ‘infrequent’ situations rather than on going or frequent operations. Envisages this to include charity fairs, cake stalls etc, but not an operation producing food on a regular basis. Believes if a food for charity fundraising is produced on an ongoing basis it should be fully labelled. <i>New Zealand Food Safety Authority</i>.</li> </ul>

Issue	Submission Comments
Internet food – label obscured at time of purchase	<ul style="list-style-type: none"> <li>• Notes that Standard 1.2.1 clause 2(1) requires food to bear a label but the requirement for a label to be visible is unclear. States that although it is logical that the interpretation includes visibility, this could be challenged. Suggests amending to clearly reflect the intention. Believes the label or label information, should be able to be viewed prior to purchase where food is sold on the Internet. <i>New Zealand Food Safety Authority.</i></li> <li>• Notes example of label obscured include food ordered over phone or internet. <i>Coles Myer.</i></li> <li>• Internet shopping is an example of a situation where labels cannot be examined prior to purchase. <i>West Australian Food Advisory Committee.</i></li> </ul>
Vending Machines	<ul style="list-style-type: none"> <li>• Supports an exemption when packages within are fully labelled. <i>Australian Cook Chill Council.</i></li> <li>• Rejects any changes to the current labelling requirements on the outside of vending machines. Suggests that foods where the purchaser selects ingredients may already be covered by the exemption ‘food is delivered packaged, and ready for consumption, at the express order of the purchaser’. <i>Australian Food and Grocery Council.</i></li> <li>• Supports an exception for external mandatory warning statements when packages within are fully labelled. <i>Australian &amp; New Zealand Baking Industry Associations.</i></li> <li>• Supports an exemption when packages within are fully labelled. Comment that it is not practical to label externally as items inside may vary regularly and labels may be subject to vandalism. <i>Confectionery Manufacturers of Australasia Limited.</i></li> <li>• States, ‘where food is sold in vending machines or other means where the food cannot be examined prior to purchase we believe that full labelling requirements still apply. The purchaser has no other means of identifying the suitability of the food but once they have obtained it from the vending machine the full mandatory labelling information must be available’. Believes labelling on the outside of tea, coffee, soups, or similar self service vending machines is appropriate. <i>Cadbury Schweppes Pty Ltd.</i></li> <li>• Supports an exemption when packages within are fully labelled. Notes that systems to manage the process of changing products and update information in real time are not currently price accessible and to install would likely increase the cost of vending product purchases. Comments ‘the majority of food [from vending machines] is generally consumed immediately therefore the same information that is required to be provided for that product at point of sale for other foods exempt from labelling (such as mandatory warning statements) may be desirable on the exterior of the machine’. Believes the majority of people who purchase from vending machines are familiar with the product and people with allergies or sensitivities know which products to avoid. <i>Coles Myer.</i></li> <li>• Notes it may be difficult to maintain information given turnover of varieties inside vending machines may happen quite often. Believes it to be easier to ensure that all foods being sold from the vending machine meet the current labelling standards. <i>Cookie Man Pty Ltd.</i></li> </ul>

Issue	Submission Comments
Vending Machines cont.	<ul style="list-style-type: none"> <li>• Supports an exemption when packages within are fully labelled. Believes machines should display information on the outside for all unpacked products. <i>Department of Health and Human Services (Tasmania)</i>.</li> <li>• Does not consider vending machines to be packages, therefore see no need to exempt machines selling labelled food. Notes the current Standard does not require that consumers must have access to labelling prior to purchase. Believes machines selling unpackaged food should have information at point of sale. <i>Department of Human Services Victoria</i>.</li> <li>• Supports an exemption when products within are fully labelled. Believes required information (including mandatory declarations, warnings and advisory statements) should be provided on the exterior of the machine or at point of purchase when products are not fully labelled. <i>Dietitians Association of Australia</i>.</li> <li>• Regards a vending machine as an appliance, not a package. Does not support labelling on the outside of machines and acknowledge it is not always possible to fully label every item of food inside (example of coffee machines). <i>Environmental Health Unit of Queensland Health</i>.</li> <li>• Supports an exemption when packages within are fully labelled. <i>Food Technology Association of Victoria Inc</i>.</li> <li>• Not previously considered Standard 1.1.1 subclause 11(1) to relate to vending machines and has understood it to apply to interference with the label itself rather than obscuring the view of the label. Considers vending machines to be appliances rather than packages and states that the convention has been that a package is part of the unit sold to the customer. <i>NSW Food Authority</i>.</li> <li>• Supports the exemption of vending machines when the packages within are fully labelled. Believes for health and safety reasons, the current requirements under Clause 2(2), the name of the food, supplier details and lot identification or date marking should be required on the exterior of the machine or in an associated pamphlet or poster attached to the machine, when packages within are unlabelled. <i>National Heart Foundation of Australia</i>.</li> <li>• Believes no further information is needed when packages within are fully labelled and supports consideration of an exemption. States the outside of the machines should be labelled with the operators contact details. Believes full labelling information should be provided at the point of sale when food within is unlabelled or partly labelled. Comments that some of these products may already be subject to some exemptions such as ingredient listing on single ingredient products. <i>New Zealand Food Safety Authority</i>.</li> <li>• Supports an exemption when packages within are fully labelled. Believes that where controls are necessary, they should not differentiate between products assembled to the customer's order by a vending machine and products assembled by traditional means (uses the example of a coffee). i.e. labelling rules should apply to individual products regardless of the outlet, subject to a reasonable test of practicability. Notes the narrow definition of packaging as suggested by the report cannot effectively cover vending machines as they now exist and will develop in the future. <i>New Zealand Retailers Association</i>.</li> </ul>

Issue	Submission Comments
Vending Machines cont.	<ul style="list-style-type: none"> <li>• Believes labelling outside of vending machines that sell perishable items will assist consumers to make an informed choice, particularly mentions ingredient listing and allergens. <i>Quality Food Services.</i></li> <li>• Opposes any change to the current labelling requirements on the outside of vending machines. <i>Unilever Australasia.</i></li> <li>• Comments that making an informed decision after purchase limits any remedial measure available to the consumer should the incorrect choice be made, particularly in regards to allergens. Believe allergen statements must be displayed in a prominent position. <i>West Australian Food Advisory Committee.</i></li> </ul>
Hampers	<ul style="list-style-type: none"> <li>• Suggests the definition of hamper needs to be expanded to include items fully labelled, but visible at time of purchase. Examples of similar items: packed lunches provided at an event; meat and seafood trays for raffles; samples packed inside other retail packs; sauce or flavour sachets inside retail packs; wrapping of food and other items together for sale as one item (e.g. a toy car and a chocolate bar). Believes there is no issue if the inner pack is correctly labelled. <i>Australian Cook Chill Council.</i></li> <li>• Food packaged in a hamper appears to warrant consideration for an exemption. <i>Department of Human Services Victoria.</i></li> <li>• No issue with an exemption when packages within are fully labelled. <i>Australian Cook Chill Council.</i></li> <li>• Rejects the proposal to require the name of the food, lot identification and supplier detailers to be displayed on hampers, stating it will impose significant costs to industry and is impractical when hampers are selected and assembled by the purchaser. Comments that AQIS already have access to documentation provided with imported products. Supports an exemption when the packages within are fully labelled. <i>Australian Food and Grocery Council.</i></li> <li>• Opposed to full and partial external labelling and believe a list of hamper ingredients including any mandatory warning statements displayed at point of purchase to be appropriate where packages within are fully labelled. <i>Australian &amp; New Zealand Baking Industry Associations.</i></li> <li>• Does not support an exemption. States that labelling the outside in line with the current requirements is achievable and of assistance during recall situations (and provides purchaser with information). Notes that all items within should be fully labelled as hampers are often opened and products stored for some time. <i>Coles Myer.</i></li> <li>• Supports the adoption of the UK model. Recommends that all seasonal confectionery packs be included in the exemption. <i>Confectionery Manufacturers of Australasia Limited.</i></li> <li>• States that food within a hamper may be exempt but either the hamper must be clearly labelled or the information relating to all products within the hamper must be made available within the hamper. It was stated that while there is no expectation that the hamper itself should be labelled, the packaged items within the hamper should be labelled or the appropriate information made available within the hamper. Believes the onus for ensuring information is readily available should be on those preparing and selling the hamper. <i>Cadbury Schweppes Pty Ltd.</i></li> </ul>

Issue	Submission Comments
Hampers cont.	<ul style="list-style-type: none"> <li>• Supports an exemption when packages within are fully labelled. Comments that labelling both the internal content &amp; outside of hamper would increase the cost to the consumer. Suggest only having allergen information on the outside of the hamper. <i>Cookie Man Pty Ltd.</i></li> <li>• Comments that provided the packages within the hamper are fully labelled there should be sufficient protection of public health and safety. In the case of imported goods, support that minimum information should be provided that enables AQIS to meet importation requirements. <i>Department of Health and Human Services (Tasmania).</i></li> <li>• Supports an exemption when products within are fully labelled. Believes that when contents are not packaged, the required information should be provided on the hamper cover. <i>Dietitians Association of Australia.</i></li> <li>• Supports an exemption when packages within are fully labelled. <i>Environmental Health Unit of Queensland Health.</i></li> <li>• Believes it sufficient for the outside of the hamper to be labelled with name of supplier, business address and packing details. Believes it unnecessary to require full external labelling. <i>Food &amp; Beverage Importers Association.</i></li> <li>• States labelling of hampers would be extremely impractical and would require specialist equipment. Believes even putting a lot identification and best before dates on the external packaging would be very difficult and time consuming (and therefore expensive). Comments that if a labelling requirement were imposed, their likely response would be to withdraw these types of products from the market. <i>Foodstuffs (NZ) Ltd.</i></li> <li>• Supports an exemption when packages within are fully labelled. <i>Food Technology Association of Victoria Inc.</i></li> <li>• Supports an exemption when products within are fully labelled. Supports that seasonal hampers be exempt from full labelling and comment that they have not enforced this issue. Notes that care is needed to ensure broader exemptions do not become available. States that date marking and lot identification are of value only on the immediate package and serve no useful purpose on the hamper. Notes that it seems legitimate for the outer to show a composite ingredient and NIP, but this would serve no useful purpose to the consumer. <i>NSW Food Authority.</i></li> <li>• Supports the exemption of hampers from labelling provided the contents within are fully labelled. Believes the minimum labelling requirements for unpackaged goods within a hamper should be provided. <i>National Heart Foundation of Australia.</i></li> <li>• Supports exempting hampers where the packages within are fully labelled. Believes hampers should be labelled with the suppliers contact details and batch code or date mark that cover the least durable food in the hamper. <i>New Zealand Food Safety Authority.</i></li> <li>• Strongly supports an exemption when packages within the hamper are fully labelled. <i>New Zealand Retailers Association.</i></li> <li>• Supports an exemption when packages within are fully labelled. Comments that consumers should take some personal responsibility when purchasing an assortment of goods as they are making a purchase decision to do so. Suggests if a full exemption is not given, hampers labelled as ‘gift hampers’ should be exempt. <i>Progressive Enterprises Limited.</i></li> </ul>



Issue	Submission Comments
Hampers cont.	<ul style="list-style-type: none"> <li>• Preferred option is to require hampers as well as the packages within the hampers to be fully labelled. <i>Quality Food Services</i>.</li> <li>• Does not support lot identification for the individual components within a hamper being required on the outer label of the hamper. Supports a requirement for the individual components to be fully labelled. <i>Unilever Australasia</i>.</li> <li>• Believes at a minimum, allergen declarations should appear on the exterior. Of secondary concern are name of food, lot identification and suppliers details. Supports the proposal to require the name of the food, lot identification and supplier details to be displayed on hampers and packages within hampers to be fully labelled. <i>West Australian Food Advisory Committee</i>.</li> </ul>
Proposal that wrapping solely to comply with Food Safety Standards does not of itself constitute a package	<ul style="list-style-type: none"> <li>• Supports clarification on the matter. Notes further examples include wrapped cheese and cracker plates, covered dessert bowls and covered pre-plated meals. <i>Australian Cook Chill Council</i>.</li> <li>• Supports. <i>Australian &amp; New Zealand Baking Industry Associations</i></li> <li>• Supports for the situation where food is wrapped to be displayed on a counter top and state all relevant information must be available on request. Proposes larger items (such as cheeses) that are cut into smaller ready to sell/serve portions and wrapped to retain freshness be exempt stating that many retail businesses are not equipped to generate labels. <i>Coles Myer</i>.</li> <li>• States the addition of a label can take away the appeal of the product. Believes that using packaging only to preserve/improve hygienic qualities &amp; food safety parameters of the product should be exempt from labelling with ingredients and nutrition information. Comments that this information should be on request. <i>Cookie Man Pty Ltd</i>.</li> <li>• Believes that packaged products should be labelled stating that exemptions should not be provided for goods packaged for hygienic needs as this blurs the issue. <i>Department of Health and Human Services (Tasmania)</i>.</li> <li>• Believes this has potential for misuse and will probably not assist in facilitating compliance with labelling standards. <i>Dietitians Association of Australia</i>.</li> <li>• Supports. <i>Environmental Health Unit of Queensland Health</i>.</li> <li>• Supports. Notes that while the scale system (such as in a deli) produces basic label requirements, errors can occur in the re-keying of data. Comments that full product information, as supplied by the manufacturer, would be available on request. <i>Foodstuffs (NZ) Ltd</i>.</li> <li>• Does not support the inclusion of an exemption or the development of a guidance note. Supports a review of the definition of package as believe it currently extends too far. Believes the definition should not cover situations where the food is not intended for sale in that package; and not include eating and drinking utensils such as disposable cups in vending machines. <i>NSW Food Authority</i>.</li> <li>• Believes this would open a loophole for retailers to avoid full labelling requirements and as a result, consumers would not have access to information about ingredients and nutritional content. <i>National Heart Foundation of Australia</i>.</li> </ul>

Issue	Submission Comments
<p>Proposal that wrapping solely to comply with Food Safety Standards does not of itself constitute a package cont.</p>	<ul style="list-style-type: none"> <li>• Notes that products packaged by the purchaser, and those packaged in the presence of the purchaser are covered by existing exemptions. Comments that it is difficult to clearly differentiate between a packaged food and a food packed to comply with food safety standards. <i>New Zealand Food Safety Authority.</i></li> <li>• Strongly supports realistic rules to encourage covering food (for the purpose of food safety) that is normally sold unwrapped and is therefore exempt from labelling requirements. <i>New Zealand Retailers Association.</i></li> <li>• States it will be difficult to ‘draw the line’. Supports a guidance note and believes this should not be restricted to application to Standard 3.2.2 (Australia only), but should apply to any product that is received unwrapped by the retailer that is the rewrapped by the retailer for hygiene reasons. <i>Progressive Enterprises Limited.</i></li> <li>• Believes that items packaged at the point of sale should be exempt from requiring a label. Concerned that when information is provided on request that it does not have to be in writing, making it difficult for retailers to keep information on site for consumers. Comments that retail outlets have advised that ingredient information can be difficult to obtain from some suppliers, most often for bakery items but also for cook-chilled products and is most difficult when suppliers outsource the manufacture of items. <i>Quality Food Services.</i></li> <li>• Believes that food should be labelled, as the intent is to inform the consumer. States the size or source of the package should not determine the risk for the consumer. <i>Tegel Foods Ltd.</i></li> <li>• Supports. <i>West Australian Food Advisory Committee.</i></li> </ul>
<p>Intra-company Transfer</p>	<ul style="list-style-type: none"> <li>• Supports an exemption. <i>Australian Cook Chill Council.</i></li> <li>• Strongly supports and comments that there are significant labelling costs in the present system and believes these requirements are of no benefit to the end consumer. <i>Australian Food and Grocery Council.</i></li> <li>• Supports an exemption with the understanding that the obligations of product information disclosure and responsibilities be carried to the other location for sale. <i>Australian &amp; New Zealand Baking Industry Associations</i></li> <li>• Believes packaged food that is not made on the premises from which it is sold should not be exempt from carrying a label. This would prevent a company manufacturing a product and transporting it to a wholesaler in bulk, the wholesaler could then pack the product off with no additional processing. Comments that an exemption may be where the packaged food cannot be adequately labelled at the site where it is packaged and this is done at a second location prior to distribution and sale. <i>Cadbury Schweppes Pty Ltd.</i></li> <li>• Does not support. Believes food should be labelled at point where it is packaged to ensure consumers have access to the information. Otherwise states that comprehensive, up-to-date manuals at point of sale would be required and these would be onerous to manage. <i>Coles Myer.</i></li> </ul>

Issue	Submission Comments
Intra-company Transfer cont.	<ul style="list-style-type: none"> <li>• Comments ‘The main cookies we pack in gift items do not require full labelling as they comply with clause 2 (1) c - made and packaged from the premises in which it is sold. Technically the gifts on display at the shop do not require labelling however, once they are transferred to an outpost (maybe in the same or different mall); full labelling is required. This makes it very difficult to meet this requirement because our ready bake range has 38 varieties, stores pack a random selection of these cookies, and no one store will pack exactly the same as another store (making one generic label impossible). Indicative nutrition information can be reproduced, but how do you accurately cover ingredients? However specific allergen information can be attached to the gift items’. <i>Cookie Man Pty Ltd.</i></li> <li>• Supports an exemption on the basis that the information is made available at the point of sale – as if the product was packed in the presence of the purchaser or made on those premises. States it should be the responsibility of the parent organisation to ensure this information is available. <i>Department of Health and Human Services (Tasmania).</i></li> <li>• Believes it practical to exempt these, provided the Standard makes it clear that labelling information is required at the point of retail sale. <i>Dietitians Association of Australia.</i></li> <li>• Does not support an exemption because the final seller will have legal responsibility for the sale but may have no control over the ingredients, possible allergens etc. <i>Food Technology Association of Victoria Inc.</i></li> <li>• Believes the intention of the clause is not reflected in its drafting which should be reviewed further. <i>NSW Food Authority.</i></li> <li>• States where information is available within the company, the food could be exempted labelling as if it were made on the premises. Concerned that there is increased scope for problems due to lack of safety information such as date marking where staff on the premises have not made the food and hence are likely to be less familiar with it. Believes a date mark requirement would be useful to ensure good stock control and for recall purposes. <i>New Zealand Food Safety Authority.</i></li> <li>• Supports extending the exemptions. States that it should only be necessary that information relating to products is readily available on request. Believes product name, warning and advisory statements and batch code/best before dates should remain a labelling requirement. <i>Progressive Enterprises Limited.</i></li> <li>• Support an exemption. <i>New Zealand Retailers Association.</i></li> <li>• Believes there would be benefits in this exemption, stating it is a similar to foods wrapped at the retail outlet. <i>Quality Food Services.</i></li> <li>• Believes it is irrelevant whether food is labelled at the manufacturing bakery or the retail bakery, the fact that the consumer has the information required is the point. <i>Tegel Foods Ltd.</i></li> <li>• Fully supports the exemption. <i>Unilever Australasia.</i></li> <li>• Recommends caution. Believes this will inconvenience consumers and retailers (who must take the time to respond to consumer queries for potentially every unlabelled product). <i>West Australian Food Advisory Committee.</i></li> </ul>

Issue	Submission Comments
Milk in Glass Bottles	<ul style="list-style-type: none"> <li>• Supports an exemption to full labelling, and that the milk supplier have the flexibility to determine the most appropriate means of providing consumers with nutritional information. <i>Australian Food and Grocery Council.</i></li> <li>• Supports an exemption. <i>Cadbury Schweppes Pty Ltd.</i></li> <li>• Does not support. States that milk in glass bottles may not always represent such a small proportion of the market and should be required to meet the same labelling requirements as milk in plastic bottle or any other beverage in a glass bottle. States that while labelling will incur a cost, this applies to any manufacturer of a packaged product. <i>Coles Myer.</i></li> <li>• Aware of two small producers of bottled milk in Tasmania that comply with full labelling requirements by applying a hand wrap around labels. Believes these could be applied by machine for higher volumes. Notes that each producer was comfortable with the current requirements. Believes that there appears little need to provide exemptions for these products. <i>Department of Health and Human Services (Tasmania).</i></li> <li>• Supports information being provided in a pamphlet (or similar) form to accompany delivery. <i>Dietitians Association of Australia.</i></li> <li>• Questions if NIP labelling is required on whole milk. Has previously asked FSANZ to exempt milk from NIP labelling. No problem with NIP being provided by other means when accompanying other than bottled whole milk. <i>Environmental Health Unit of Queensland Health.</i></li> <li>• Supports an exemption from carrying an NIP and states that it is not practical, economic or appropriate in include a pamphlet or neck ring on every bottle of milk sold. States that consumers can access NIP information from their vendor, dairy or by toll free phone or website. <i>Fonterra Co-operative Group Ltd.</i></li> <li>• Supports an exemption. <i>Food Technology Association of Victoria Inc.</i></li> <li>• Believes there to be no grounds for exemption but recognises this to be an emotive issue. States this matter can be left to NZ and WA to sort out. <i>NSW Food Authority.</i></li> <li>• Considers that required nutritional information could be provided in a pamphlet accompanying home deliveries and in a pamphlet or poster in association with milk sold in stores. Believes it important that Clause 2(2) of Standard 1.2.1 is also adhered to, including directions for use and storage and mandatory declarations. States that while these products may currently only contain milk as an ingredient it is possible that in the future there may be additional ingredients – hence the need to ensure requirements of Std 1.2.3 are met. <i>National Heart Foundation of Australia.</i></li> <li>• Agrees that milk sold in glass bottles should continue to be required to be labelled with the name and business address of the supplier and that the NIP could be provided by other means, including to the purchaser upon request, or be carried by the milk vendor or dairy in the form of a pamphlet. <i>New Zealand Food Safety Authority.</i></li> <li>• Not yet received input for NZ retailers this applies to. Appreciates that is reasonable to expect all milk to be consistent, regardless of packaging but sees little harm in an exemption for milk sold in glass bottles given the practical issues involved. <i>New Zealand Retailers Association.</i></li> </ul>

Issue	Submission Comments
Milk in Glass Bottles cont.	<ul style="list-style-type: none"> <li>• Believes NIP information should be provided to remain consistent with other packaged foods. Supports embossed bottles as a means of reducing paper that would end up as rubbish. However questions if this would meet the requirement of ‘...distinct contrast to the background’. Concerned about environmental issue of pamphlets or slide on collars. States that NIP is only important to the consumer when purchasing a particular variety for the first time. Believes that as milk is a stable food and the consumer usually purchases the same brand repeatedly, it is not viable to generate unnecessary documentation indefinitely. <i>Progressive Enterprises Limited.</i></li> <li>• Supports the requirement for an NIP. Believes a slide collar to be a viable solution. <i>West Australian Food Advisory Committee.</i></li> </ul>
Information Requirements in Subclause 2(2)	<ul style="list-style-type: none"> <li>• Supports Option 2 (to update to reflect current requirements). <i>Australian Food and Grocery Council.</i></li> <li>• Supports Option 2. <i>Australian &amp; New Zealand Baking Industry Associations</i></li> <li>• Supports reviewing subclause 2(2). Supports a general standard and believes this will minimise the risk of not capturing new products and will reduce the need for further requirements in the future. Believes a general requirement will assist with interpretation. <i>Coles Myer.</i></li> <li>• Supports including a general requirement. <i>Department of Health and Human Services (Tasmania).</i></li> <li>• Supports Option 2 (to review current requirements in subclause 2(2)). Do not support the approach of the former NZ regulations as believes this will result in more information than necessary being supplied to the purchaser and will make labelling onerous for marketers of unpackaged foods. <i>Dietitians Association of Australia.</i></li> <li>• Supports a general requirement. <i>Environmental Health Unit of Queensland Health.</i></li> <li>• Supports Option 2 (to review current requirements in subclause 2(2) in Standard 1.2.1). Concerns over sale of sports drinks at juice bars. States the option of providing all information required on the label being provided on request warrants further review but at face value is probably excessive. <i>NSW Food Authority.</i></li> <li>• Supports further consideration of a general requirement. Notes this simplified approach is similar to that contained in the former NZ Food Regulations 1984 (Regulation 7(1)). <i>New Zealand Food Safety Authority.</i></li> <li>• Supports Option 2. Believes it unnecessarily onerous to require all the information required by the Code for unpackaged foods. States this will incur particular difficulties for foodservice operators who would be required to provide full nutrition information, ingredients and percentage ingredient labelling on all products in situations where sometimes the pulling together of ingredients to make meal items or foods is unlikely to have the same degree of quality control as can be obtained in a factory situation. <i>National Heart Foundation of Australia.</i></li> <li>• Has limited understanding of the issue but, based on the information supplied, not convinced that a change is required. <i>New Zealand Retailers Association.</i></li> </ul>

Issue	Submission Comments
Information Requirements in Subclause 2(2) cont.	<ul style="list-style-type: none"> <li>• Supports Option 2 (to update exemptions as suggested for caffeinated beverages). Does not support a blanket requirement that would make it mandatory to provide all of the labelling information for all exempted products on request, or on display. Supports a speedier process for amending anomalies in the labelling rules. <i>Progressive Enterprises Limited.</i></li> <li>• Supports Option 2 to simplify the requirements of the Code. <i>Quality Food Services.</i></li> <li>• Prefers Option 2. Not in favour of making it ‘on request’ as many people are reluctant to ask for information and it would require training of staff. Comments that if information on permanent display in an accessible place, consumers could choose to view it and this would extend consumer choice. <i>Tegel Foods Ltd.</i></li> <li>• Supports Option 2 (to review current requirements) and supports a general requirement. <i>West Australian Food Advisory Committee.</i></li> </ul>
<b>Food for Catering Purposes</b>	
Labelling requirements of food for catering purposes	<ul style="list-style-type: none"> <li>• Believes labelling for catering purposes and retail should not have been joined together. States ingredients as labelled have no relevance once they are used in the preparation of a meal. Believes nutrition labels should only be obligatory for retail sales. Believes food wholesalers not open to the general public and sales to restaurants should not be obliged to show nutritional values. <i>Breiz Imports.</i></li> <li>• Foods for catering purposes that are packaged and sold in that package should be labelled with all mandatory information. Care should be taken to ensure food is not unnecessarily unwrapped to avoid displaying a full label. Foods that require additional processing or handling, or which are not intended to be sold in the packaging should not be required to have the full mandatory labelling if appropriate information is provided in a suitable format. <i>Cadbury Schweppes Pty Ltd.</i></li> <li>• Concerned that the Proposal in section 2.4 to limit the information requirements for food for catering purposes when exempt from bearing a label, may negate standard warning requirements in Standard 1.2.3 and the requirement to create notification about unlabelled irradiated products. <i>Food Irradiation Watch</i></li> <li>• Supports great flexibility in labelling foods for catering purposes. States the minimum requirements should be based on public health and safety and should only require information necessary for recall purposes. States that in many cases it is not realistic to provide full labelling, as packaging is discarded or not visible when dispensing the product. <i>Food Technology Association of Western Australia Inc.</i></li> <li>• Comments that all Heinz Wattie’s NZ products for catering use currently comply with full labelling requirements within the permissions and requirements of Standard 1.2.1. <i>Heinz Wattie’s NZ &amp; Heinz Australia.</i></li> <li>• Supports Option 2. Support a provision for sufficient information to be available from the supplier of food for catering purposes, to enable compliance the Code. <i>National Heart Foundation of Australia.</i></li> </ul>

Issue	Submission Comments
Labelling requirements of food for catering purposes cont.	<ul style="list-style-type: none"> <li>• States allergen information should be considered essential and where possible should be attached to the package. <i>Quality Food Services</i>.</li> <li>• Supports AFGC submission and suggestion of only two categories, ‘food for retail sale’ and ‘other sales’. Believes food for retail sale should be fully labelled with all the current requirements, unless there are specific exemptions. States food for sale other than retail sale should be labelled with identification and traceability requirements and further information should be available on demand. <i>Unilever Australasia</i>.</li> <li>• Supports amendment to provide greater flexibility for manufacturers and suppliers of food for catering purposes. Suggests minimum labelling requirements similar to products not for retail sale based on packaging format rather than product purpose. Suggests foods for catering purposes best covered under clause 3 and 4 of Standard 1.2.1 similar to products not for retail sale. <i>PB Foods Ltd</i>.</li> </ul>
Definition of Food for Catering Purposes	<ul style="list-style-type: none"> <li>• States that there needs to be awareness that the use of the definition of ‘catering’ in P290 is not the same as the definition for ‘foods for catering purposes’ in P272. <i>Environmental Health Unit of Queensland Health</i>.</li> <li>• Supports Option 2. State that the term ‘catering’ causes confusion. Believes the definition needs to be clear that if you are a foodservice selling food, you are a retailer (not a cater producing food for catering purposes). <i>Australian Cook Chill Council</i>.</li> <li>• Supports Option 2 to amend the definition <i>Food Technology Association of Victoria Inc</i>.</li> <li>• Supports amending the definition. Believe that replacing ‘for use’ with ‘supplied to’ captures a greater range of products as well as continuing to capture ingredients that are ‘used’ in the premises. Comments that there is confusion over the difference in labelling requirements between ‘food for catering purposes’ and ‘food not for retail sale’. Notes that there is lack of clarity over the difference in the labelling requirements under clause 2 – food for retail sale or for catering purposes in that the exemptions for labelling applied to food supplied for the catering industry often rely on subclause (1)(f), food that is provided at the express order of the purchaser. <i>Australian Food and Grocery Council</i>.</li> <li>• Supports Option 2 and the proposed wording. <i>Australian &amp; New Zealand Baking Industry Associations</i>.</li> <li>• Suggests the definition ‘foods for catering purposes means all pre-packaged foods for use in restaurants, canteens, schools, caterers or self-catering institutions, where the food is offered for immediate consumption’. Suggests including ‘pre-packaged’ to identify that when the food is packaged in the format by which it will ultimately be sold it must comply with the full labelling requirements regardless of whether or not the food is sold directly to the point of sale or to the third party (caterer). <i>Cadbury Schweppes Pty Ltd</i>.</li> <li>• Support Option 2 and the proposed definition. <i>Department of Health and Human Services (Tasmania)</i>.</li> <li>• Supports Option 2 and the proposed alternative definition. <i>Dietitians Association of Australia</i>.</li> </ul>

Issue	Submission Comments
Definition of Food for Catering Purposes cont.	<ul style="list-style-type: none"> <li>• Supports Option 2, to provide greater clarity and certainty. <i>Environmental Health Unit of Queensland Health.</i></li> <li>• Supports increasing the flexibility in the definition and requirements. Concerned that attempts to redefine ‘retail sale’ may be in conflict with other definitions for the same term in other legislation. <i>Fonterra Co-operative Group Ltd.</i></li> <li>• Supports the suggested definition. <i>Food &amp; Beverage Importers Association.</i></li> <li>• Doubts that changes to the definition will provide more clarity of the Standard. Suggests the intent of the definition could be further defined in an industry user guide. <i>Food Technology Association of Western Australia Inc.</i></li> <li>• Supports Option 2 (to amend the current definition). Refers to bottled wine example under Attachment 1, Current Exemptions. <i>NSW Food Authority.</i></li> <li>• Supports Option 2 and agree with the proposed definition. Believes it important to clarify the regulations to increase understanding of the requirements by both catering organisations and the manufacturers who supply to these organisations. Suggests further examples in an editorial note, including prisons, airline food, delivered meal organisations etc. <i>National Heart Foundation of Australia.</i></li> <li>• Supports Option 2 and believe proposed changes clarify the situation. <i>New Zealand Food Safety Authority.</i></li> <li>• Sees no benefit in changing the definition of ‘foods for catering purposes’ <i>PB Foods Ltd.</i></li> <li>• Supports Option 2. Suggests the definition ‘foods for catering purposes means those foods supplied to restaurants, canteens, schools, hospitals and similar self catering institutions who process or repackages the food that is provided or offered for immediate consumption’. <i>Quality Food Services.</i></li> <li>• Believes the proposed definition fails to take into account that the manufacturers supplying to restaurants and catering sector are the same manufacturers supplying to the canteen, school and hospital sector. <i>Sydney South West Area Health Service.</i></li> <li>• Supports Option 2, to amend the current definition to provide greater clarity. <i>Tegel Foods Ltd.</i></li> <li>• Supports Option 2. Support changes suggested in the AFGC submission. <i>Unilever Australasia.</i></li> <li>• Supports Option 2 and suggested rewording. <i>West Australian Food Advisory Committee.</i></li> </ul>
Requirement for Importer Details	<ul style="list-style-type: none"> <li>• Supports Option 2 to permit importers details to be provided in accompanying documentation. States this information is readily available to the supplier as it is necessary in order that the product is able to clear customs. <i>Australian Food and Grocery Council.</i></li> <li>• Supportive of the proposal to include either the local distributor’s details or the importers details for food for catering purposes with the view that this will aid in the traceability of suppliers. <i>Australian &amp; New Zealand Baking Industry Associations.</i></li> <li>• States that in order to comply with CoOL, importer details should be provided on a label or in some other documentation. <i>Department of Health and Human Services (Tasmania).</i></li> </ul>



Issue	Submission Comments
Requirement for Importer Details cont	<ul style="list-style-type: none"> <li>• Believes there is a need for importer details to be provided. <i>Environmental Health Unit of Queensland Health.</i></li> <li>• Believes a similar flexibility should be extended to all foods for catering and not just imported foods. Comments on the sentence ‘in certain circumstances, the supplier details may not be known at the time of importation’, stating that the importer [believe ‘exporter’ is the intention] must be known at the time of clearance by Customs and AQIS. But the importer may not be known at the time of export, because goods may be traded on transit. <i>Food &amp; Beverage Importers Association.</i></li> <li>• Recognises that some flexibility may be needed. Supports use of public health and safety criteria for determining labelling requirements in this situation. <i>NSW Food Authority.</i></li> <li>• Believes the importer details are covered under requirements for supplier details and should not be treated differently. <i>New Zealand Food Safety Authority.</i></li> </ul>
Requirement to bear a label containing prescribed information	<ul style="list-style-type: none"> <li>• Supports Option 2 and suggest this approach is already widely used. Supports the option to only require information necessary for public health on a label, with other information available via other means. Believes it should not be up to the purchaser to track information down. <i>Australian Cook Chill Council.</i></li> <li>• Strongly supports. Agrees that the proposed minimum information necessary to identify a product. Comments on issues in relation to date marking and condition of storage for foods that are delivered frozen. Believes that once thawed appropriate storage is the caterer’s responsibility and that the manufacturer may provide advice in associated documentation. <i>Australian Food and Grocery Council.</i></li> <li>• Supports the utilisation of a criterion that considers all parties interests equally. <i>Australian &amp; New Zealand Baking Industry Associations.</i></li> <li>• Supports the proposed approach and have no objection to providing more flexibility in labelling of food for catering purposes. <i>Department of Health and Human Services (Tasmania).</i></li> <li>• Supports the criteria and the proposed prescribed information requirements. <i>Tegel Foods Ltd.</i></li> <li>• Agrees that the proposed minimum labelling information. <i>Unilever Australasia.</i></li> <li>• Tentatively supports Option 2 (to require certain information to be attached on a label and the remaining information in commercial documentation). Supports the proposal to utilise public health and safety criteria and believes the information proposed is consistent with this. Seeks the ability for businesses purchasing food to access additional information that allows them to comply with additional labelling requirements. <i>Environmental Health Unit of Queensland Health.</i></li> <li>• Supports the use of public health and safety information as criteria. Comments that apart from country of origin information, proposed mandatory information are consistent with this criteria. Believes there is no compelling reason for requiring NIP and ingredient labelling to be on a label. <i>Food &amp; Beverage Importers Association.</i></li> </ul>

Issue	Submission Comments
Requirement to bear a label containing prescribed information cont.	<ul style="list-style-type: none"> <li>• Supports Option 2 (a more flexible approach to labelling of foods for catering purposes). States that additional information should be mandated rather than ‘at the request of the purchaser’ to ensure that responsibility for supplying the information rests with the manufacturer. <i>NSW Food Authority</i>.</li> <li>• Supports the provision by the manufacturer/supplier of all information necessary for foodservice outlets to comply with the range of information required by the Code for products for retail sale. Believes the manufacturer needs to provide mandatory nutrition and ingredient information in order for caterers to comply with their labelling responsibilities. <i>National Heart Foundation of Australia</i>.</li> <li>• Prefers Option 2 (to amend clause 2). Supports the proposal to utilise public health and safety as the criteria for determining which pieces of information must be included on a label. Agrees with the pieces of information proposed. <i>New Zealand Food Safety Authority</i>.</li> </ul>
Commercial Documentation	<ul style="list-style-type: none"> <li>• Supports. Comments this could be in hardcopy and/or electronically. Believes electronic/web based systems will allow industry to be more responsive to consumer needs. <i>Australian Food and Grocery Council</i>.</li> <li>• Believes paperwork should not have to arrive with every delivery if the information stays the same. Believes commercial documentation should be defined and should include specifications, brochures and catalogues; it should not include 1 800 numbers and Internet sites. Agrees that it should include the name of the food; lot identification and supplier details; believes it should also contain storage and handling instructions and a weight or volume statement. <i>Australian Cook Chill Council</i>.</li> <li>• Supports the proposal for certain prescribed information to be provided in commercial documentation. Believes the definition of associated documentation from the Code ‘documents including delivery dockets and specification sheets, relevant to the package of food which are provided by the supplier and may or may not be attached to that package’ would be appropriate in promoting consistency between legislation wording. Supports the need for commercial documentation to include the name of the food, lot identification and supplier details as a means of establishing a link between the commercial documentation and the food for traceability purposes. <i>Australian &amp; New Zealand Baking Industry Associations</i>.</li> <li>• No objection provided it does not compromise public health and safety. Believes it should include the name of the food, lot identification and supplier details. Believes there is no need to define ‘commercial documentation’. <i>Department of Health and Human Services (Tasmania)</i>.</li> <li>• Opposed. Does not support any measure that removes the requirement for prescribed information to be on labels of packaged food for catering purposes. Believes this has potential to complicate traceability. Notes that it cannot be guaranteed that caterers will keep all information readily available should a recall be required. States labelling on commercial documentation could be considered in addition to package labelling but not as a replacement. <i>Department of Human Services Victoria</i>.</li> </ul>

Issue	Submission Comments
Commercial Documentation cont.	<ul style="list-style-type: none"> <li>• Supports Option 2, believes for this to be effective ‘commercial documentation’ needs to be defined and accompany food delivery. Generally agrees with proposed information requirements but query the need for lot identification if supplier details and date marking information is provided. Supports the separation of requirements for food for catering purposes from the requirements of food for retail sale to clarify the labelling requirements and exemptions. <i>Dietitians Association of Australia.</i></li> <li>• Supports this proposal and the proposed information requirements. Supports the need to define ‘commercial documentation’. <i>Environmental Health Unit of Queensland Health.</i></li> <li>• Believes it appropriate for caterers to hold a file/database of ingredient specifications including all nutrition and allergen information. Notes that packaging is generally discarded rather than filed as a source of information for consumers. <i>Fonterra Co-operative Group Ltd.</i></li> <li>• States that in the case of bulk food, supplier information may be provided in documentation accompanying the food (Standards 1.2.1, clause 3(2)), while there is no definition of ‘accompanying documentation’ and no stipulation as to how the document must be linked to the food shipment. Not aware that this has caused an enforcement problem. Believes a specific definition will restrict the flexibility the proposal is promoting and it should be the suppliers’ responsibility to show how a document it claims to be an accompanying document is clearly linked to an actual shipment of food. <i>Food &amp; Beverage Importers Association.</i></li> <li>• Questions the need to define commercial documentation stating that information must be supplied prior to or accompanying delivery and the manner in which it is supplied seems superfluous. <i>NSW Food Authority.</i></li> <li>• Supports the use of commercial documentation for some information (e.g. nutrition information and ingredients) rather than a label for food for use in catering. Believes nutrition information or ingredients should not be provided in a specified format (as is currently required in Standards 1.2.4 and 1.2.8), provided that the information is sufficient for the foodservice operator to comply with the Code. Believes it important to define commercial documentation and to ensure it is provided at the same time as delivery or beforehand. States the documentation should contain sufficient information about the name of the food, supplier, lot identification etc to ensure there is no confusion about which information relates to which food. <i>National Heart Foundation of Australia.</i></li> <li>• Believes the commercial documentation may be in the form of written product specifications and should contain all information that would be required if the food were sold by retail. Notes documentation needs to be assessable and be up to date. There needs to be a means in place to ensure that purchasers receive advice of any changes to the documentation. <i>New Zealand Food Safety Authority.</i></li> <li>• Suggests many catering companies and restaurants prefer the information on paper as this is included in quality manuals. Comments that packaging of bulk products is often discarded and therefore only relevant for transport. <i>PB Foods Ltd.</i></li> </ul>

Issue	Submission Comments
Commercial Documentation cont.	<ul style="list-style-type: none"> <li>• Notes the hospital sector requires timely access to full ingredient list and NIP information to ensure client safety. Comments that mandatory statements do not cover all foods to which people can be allergic or intolerant. Believes access to information must be timely. Believes documentation should be provided at the very least at time of delivery and sooner if requested. Believes manufacturers must be responsible for highlighting any changes to products, as it will be impossible for the purchaser to identify if information is not on a label. <i>Sydney South West Area Health Service.</i></li> <li>• Believes the term should be defined to include the product name, company information and lot information. Supports minimum document handling costs and note this approach will allow the information to be retained when the package is disposed of. <i>Quality Food Services.</i></li> <li>• Supports the proposal that commercial documentation contain prescribed information and is forwarded with or before the delivery. Believes the means of document delivery may need to be defined (e.g. email, fax and hard copy). Notes that for many companies with a large number of SKU's electronic information systems are the only realistic options. Believes it must include the parameters suggested but should also include a unique identifier such as a product code. <i>Tegel Foods Ltd.</i></li> </ul>
Current Exemptions	<ul style="list-style-type: none"> <li>• Comments that other situations to consider include food delivered in bread crates, paper or foil lined foam 'esky' style boxes, platters and a range of other items. <i>Australian Cook Chill Council.</i></li> <li>• Supports the proposal to amend the exemptions in clause 2(1). <i>Australian Food and Grocery Council.</i></li> <li>• Opposed to removing the exemption clauses, in particular the removal of 2(1)(c) 'the food is made and packaged on the premises from which it is sold'. <i>Australian &amp; New Zealand Baking Industry Associations</i></li> <li>• Supports Option 2 (to amend exemptions in subclause 2(1)), with the proposed exemptions to be retained and added for 'food for catering purposes'. <i>Dietitians Association of Australia.</i></li> <li>• Supports removal of clauses that serve no useful purpose for customer, caterer or supplier. <i>NSW Food Authority.</i></li> <li>• Supports Option 2 and agree with the FSANZ proposal in relation to the exemptions from labelling of foods for use in catering. Not currently aware of any additional circumstances that should be exempt. <i>National Heart Foundation of Australia.</i></li> </ul>
Gastronome Trays	<ul style="list-style-type: none"> <li>• States information can be supplied in specifications prior to delivery; recipes and menu databases; and brochures provided in a general sense in a purchasing specification by the customer. <i>Australian Cook Chill Council.</i></li> <li>• Comments that if an exemption is to be specific for gastronome trays a definition is required, otherwise suggests identifying the principle and stating the exemption in a generic way. <i>Australian Food and Grocery Council.</i></li> </ul>

Issue	Submission Comments
Gastronome Trays Cont.	<ul style="list-style-type: none"> <li>• Supports not retaining the mentioned subclauses, and exempting devices such as gastronomes from labelling requirements providing the information can be sought by other means. <i>Department of Health and Human Services (Tasmania)</i>.</li> <li>• Supports an exemption for gastronomes or similar packages. <i>Environmental Health Unit of Queensland Health</i>.</li> <li>• States that not retaining the exemptions will benefit the hospital sector and their retail outlets. States the gastronome trays are routinely labelled in hospital foodservices and should be required to do so to identify the food and its use by and storage conditions. States ingredient and allergen information is accessible on site; full labelling should be required if sold to an outside organisation such as another hospital or airline. Notes there is increasing use of pre-packed meals in the catering sector with the ability for these to be transferred between sites, believes these should be treated similarly to gastronome trays. <i>Quality Food Services</i>.</li> <li>• Supports an exemption. <i>NSW Food Authority</i>.</li> <li>• Supports Option 2 (to amend subclause 2(1) to better take account of the circumstances in which food for catering purposes is likely to be presented and supplied). <i>New Zealand Food Safety Authority</i>.</li> </ul>
Information Requirements in Subclause 2(2)	<ul style="list-style-type: none"> <li>• Supports amending requirements to better reflect the information needs of caterers provided the supplier readily provides the information (to the satisfaction of the customer). <i>Australian Cook Chill Council</i>.</li> <li>• Believes it is essential that small wrapped chocolates and cheeses as part of a meal continue to be exempt, including an exemption on allergen labelling. Believes it is the responsibility of the caterer to advise consumers if chocolates provided contain nuts. Supports amending subclause 2(2). <i>Australian Food and Grocery Council</i>.</li> <li>• Supports the proposal to amend current information requirements. <i>Australian &amp; New Zealand Baking Industry Associations</i>.</li> <li>• Supports developing a general requirement. <i>Department of Health and Human Services (Tasmania)</i>.</li> <li>• Supports Option 2 and a general requirement where information can be requested to enable the purchaser to comply with requirements of the Code. <i>Dietitians Association of Australia</i>.</li> <li>• Tentatively supports Option 2 (to amend current information requirements). Supports an exemption where the food is in a transportation outer and the information is clearly discernible through the outer. Unaware of other situations that may require special consideration. Supports the development of a general requirement. <i>Environmental Health Unit of Queensland Health</i>.</li> <li>• Supports a general requirement. <i>Quality Food Services</i></li> <li>• Does not support placing the onus on the purchaser to request information. States that if exemptions are to be incorporated into the Standard to the benefit of the supplier, the supplier should carry the onus of responsibility for providing that information. Notes this is particularly relevant where a change in formulation or source of ingredients and where advice on the presence of allergens may be based on outdated information. <i>NSW Food Authority</i>.</li> </ul>

Issue	Submission Comments
Information Requirements in Subclause 2(2) cont	<ul style="list-style-type: none"> <li>• Prefers Option 2 (to amend to better reflect information needs). Agrees to requiring information for the protection of public health and safety and to facilitate a food recall. States the purchaser or a relevant authority must be able to request any information from the supplier, sufficient to enable them to comply with the requirements in the Code. <i>New Zealand Food Safety Authority</i>.</li> <li>• Believes clause 2 of Standard 1.2.1 to be too complex, containing too many exemptions open to misinterpretation. Supports rewording to clarify labelling requirements of inner packages. Suggests a flow chart for labelling requirements in an industry guide. Produce ice cream and dairy products in bulk containers, which are intended for catering and retail sale. Comments that for some of these containers it is not possible to attach a label to the inner packaging. Requests minimum labelling requirements for product label and provision of additional information in accompanying documentation. <i>PB Foods Ltd</i>.</li> </ul>
<b>Meals provided by Delivered Meal Organisations (DMOs)</b>	
General Comments	<ul style="list-style-type: none"> <li>• Supports minimalist approach to labelling. Comments that current proposals will bring about financial impositions that will seriously disadvantage service, clients and the existence of MOW services. Strongly supports the views expressed in the individual state and territories submissions. <i>Australian Meals on Wheels</i>.</li> <li>• Considers current legislation to be reasonably clear but state that if amendment to 2(1)(f) can achieve consistent interpretation support is merited. Believes cost associated with Option 2,3 and 4 may be of concern. Considers Option 5 to not be practical. <i>Department of Human Services Victoria</i>.</li> <li>• Supports Option 2 <i>Food Technology Association of Victoria Inc</i>.</li> <li>• Believes more stringent labelling would impact on the cost of equipment, and the volunteer nature of the operation. States that changes will have to be funded by the government not only for set up and implementation but also for the ongoing recurrent activity. <i>Meals on Wheels SA Incorporated</i>.</li> <li>• Comments ‘that in reference to the current DMP project commented on in 3.2.2 page 57 of the Report, it is important to note that this project is focusing on Food Safety Programs and food safety information. Labelling is not a part of the scope as we understand it’. <i>Meals on Wheels SA Incorporated</i>.</li> <li>• Has not pursued enforcement on the basis that application was being made to FSANZ to resolve the issues. Exposed to accusations of failure to administer the Act in the meanwhile. <i>NSW Food Authority</i>.</li> <li>• Believes the wording of this amendment should make it clear that it refers to packaged meals provided by DMOs. States the term ‘delivered meal organisation’ should be defined. <i>National Heart Foundation of Australia</i>.</li> </ul>

Issue	Submission Comments
General Comments cont.	<ul style="list-style-type: none"> <li>• Believes any exemption for labelling that is agreed for DMOs should be similar to that of foods for catering use. Believes if the final products are exempt from labelling, it should be sufficient for the suppliers of foods used to make these products to provide the information, and apart from the agreed minimum labelling information, this should not have to be in the form of labelling. States similar principles apply to the labelling of meals in hospitals and similar institutions and by applying these principles consistently in setting the regulation; this should assist in the implementation, compliance and enforcement. <i>Unilever Australasia</i>.</li> <li>• Comments that change to labelling requirements could threaten the long-term viability of the service; involve significant cost for local government and auspice bodies; and increase cost to consumers. Notes that consultation is required regarding introduction needs in relation to administrative infrastructure, cost impacts, and implementation timelines. <i>Victorian Meals on Wheels Association</i>.</li> </ul>
The Current Situation	<ul style="list-style-type: none"> <li>• Some services provide comprehensive labelling, others no labelling at all. Providers identify clients' special dietary needs and food preferences at an assessment for eligibility; they then ensure that these requirements are met (may or may not be via labels). Believes minimum prescribed information on a label would support efforts. <i>Aged &amp; Community Services WA</i>.</li> <li>• Comments clients undergo screening before being eligible for the food service. Notes DMOs use a variety of methods to make sure the correct meal is delivered: 1) writing clients name and special request on the box lid and filling the order from the lid. 2) Filling the order from a running sheet of clients' information. 3) Producing in-house labels of client name, food name, allergens contained etc that go on the lid (however most DMOs do not have access to printers near the kitchen). <i>City of Melville Meal Service</i>.</li> <li>• Lists types of meals served with lids. <i>Queensland Meals on Wheels Association Inc</i>.</li> <li>• Submission includes results from a survey on Meal on Wheels services in WA conducted in 2002. <i>West Australian Food Advisory Committee</i>.</li> <li>• Examples of labels provided. Different label for hot meals and for frozen meals. Both include supplier and address. Hot meals include day and 'eat now'. Frozen include storage, thawing and reheating (oven and microwave) directions, sticker with use-by-date and content (e.g. Chicken casserole and veg). Special meals are identified by label ('vitamised', cut up, high protein, soft, vegetarian). Client able to access further information on request. Believe there is no consumer driven demand for additional labelling. <i>Meals on Wheels SA Incorporated</i>.</li> </ul>

Issue	Submission Comments
Option 1 – Maintain the <i>status quo</i>	<ul style="list-style-type: none"> <li>• Does not support. <i>City of Melville Meal Service.</i></li> <li>• Believes this continues the current confusion. Have advised DMOs that certain delivered meals are exempt from some labelling requirements and have worked with them to ascertain which products should be labelled. Experience some enforcement difficulties, comments that no action would be taken against non-complying DMOs. <i>Department of Health and Human Services (Tasmania).</i></li> <li>• Supports. <i>Meals on Wheels SA Incorporated.</i></li> <li>• Not supported. Comments that fully labelled meals supply more information than needed with attendant costs. Exempt meals present potential risk to public health and safety. States non-compliant meals present enforcement dilemma and health and safety issues. <i>NSW Food Authority.</i></li> </ul>
Option 2 – Exempt all packaged meals delivered by DMOs from labelling	<ul style="list-style-type: none"> <li>• States this option has potential, especially if the definition of DMOs is quite clear to include clients who are provided with home delivered meals provided by an organisation that is registered by HACCC. Recommend that an addition to 1.2.1, 2(2) be made for DMOs exempt under 1.2.1, 2(1) to comply with Standard 1.2.5 (date marking etc). <i>City of Melville Meal Service.</i></li> <li>• Not supported. Comments this option is inappropriate on the grounds of public health and safety. <i>NSW Food Authority.</i></li> <li>• Supports. Believes there is a need for a definition of DMOs so an exemption isn't extended to prepared supermarket meals. Notes that the information requirements of subclause 2(2) would be maintained and information should be provided to the recipient by other means. Believes safe handling instructions are needed when meals are provided frozen, or where not consumed immediately. States that where DMOs wish to rely on the provision of information on request, there would need to be a system in place to supply delivery volunteers with this information, or to supply customers with this information directly, such as through a telephone helpline. <i>New Zealand Food Safety Authority.</i></li> </ul>
Option 3 – Require all packaged meals provided by DMOs to be fully labelled	<ul style="list-style-type: none"> <li>• Strongly opposes and believes it would force many services to close. Believes service providers do not have the necessary funds, technical expertise and personnel to comply. <i>Aged &amp; Community Services WA.</i></li> <li>• Believes this would result in either no service or a very reduced serviced providing an extremely limited range of foods. Believes DMOs are the same as restaurants only they take food to the client. The huge amount of variability in each meal (made to clients preferences) would make it impossible to label with an NIP. Comments that DMOs do not have the technical expertise required for this option. <i>City of Melville Meal Service.</i></li> <li>• Believes it likely that DMOs would seek assistance from Government and this is likely to divert significant resources. Comments that enforcement activity would not be affected, as DMOs are not routinely policed. Believe that given the provider/client relationship, this level of information is not required for enforcement purposes. <i>Department of Health and Human Services (Tasmania).</i></li> </ul>



Issue	Submission Comments
	<ul style="list-style-type: none"> <li>• Qualified support in the absence of a preferred option being adopted. Reluctant to enforce requirement that are considered superfluous by recipients, which have no health and safety outcome, and which could jeopardise the financial liability of DMO. <i>NSW Food Authority</i>.</li> <li>• Believes this will be too onerous for DMOs. <i>New Zealand Food Safety Authority</i>.</li> <li>• States mandatory labelling could potentially increase cost to the client. Would like this to be identified by the Australian Government in their funding of the Home and Community Program. <i>Queensland Meals on Wheels Association Inc.</i></li> </ul>
<p>Option 4 – Require all packaged meals to be labelled with certain minimum prescribed information</p>	<ul style="list-style-type: none"> <li>• Preferred option, with the proviso that its adoption is linked to the provision of appropriate resources for both implementation and administration. States this would have considerable impact as would increase cost substantially. Costs would include increased paid staff and support and training of volunteers, and appropriate software and printers. Believes it is unlikely that hospital kitchens will comply and as a consequence the delivered meal service may have no other way of providing meals. <i>Aged &amp; Community Services WA</i></li> <li>• Believes that food supplied to DMOs should be labelled with the minimum necessary to protect public health and safety. <i>Australian Food and Grocery Council</i>.</li> <li>• Preferred option. Suggests that delivered meal organisations be exempt from all labelling except Standard 1.2.5 – Date Marking of Packaged Food and Standard 1.2.6 – Directions for Use and Storage, provided they (1) are registered with HACCC; and (2) assess client specific food requirements as part of a standardised initial assessment before food is delivered; and (3) supply food that meets the specific food requirements identified by clients directly to their homes. Believes this to be the easiest option to implement and allows for flexibility by DMOs in how it is demonstrated. <i>City of Melville Meal Service</i>.</li> <li>• Believes this approach aligns better with current practices and is not as onerous as full labelling. Believes the proposed information is appropriate. <i>Department of Health and Human Services (Tasmania)</i>.</li> <li>• Supports. Notes that the recipients of DMOs can represent a sensitive population. Believe ingredient and nutrition labelling may be important in the absence of permitted health claims for people to assess the suitability of the meal for their health condition. Accepts that full labelling may impose unreasonable cost. Believes minimal information should be needed to facilitate a food recall and protect health and safety. Notes that as meals are generally not intended to be stored, supplier details and lot identification may not as critical as for food intend to be keep for longer periods. <i>Dietitians Association of Australia</i>.</li> <li>• Suggests the addition of specific exemptions where labelling is impracticable e.g. soup in a cup, has no health and safety benefits and where information may be supplied in another form to the consumer on request. <i>Environmental Health Unit of Queensland Health</i>.</li> </ul>

Issue	Submission Comments
<p>Option 4 – Require all packaged meals to be labelled with certain minimum prescribed information cont.</p>	<ul style="list-style-type: none"> <li>• Supports. Believes this is a practical workable option that addresses the relevant issues. States that non-enforcement of the existing standard is not viable in the long term. Supports the proposed information requirements and asks if NIP information would be available on request. <i>NSW Food Authority</i>.</li> <li>• Supports. Believes the requirements for full labelling should be relaxed but given the population in receipt of the meal is often vulnerable from a health viewpoint, believe it important that information relating to directions for use and storage (including date marking), ingredient list, and other requirements of subclause 2(2) are retained. Recommended that mandatory nutrition labelling only be required when a nutrition claim is made, as it cannot be assumed that the menu is under the guidance of a dietitian. Believes the need for information to assist recall is not a high priority for this circumstance, as the organisation should have details of the recipients of all food items. <i>National Heart Foundation of Australia</i>.</li> <li>• Supports. Considers the minimum information on labels should be: the name of the food/meal, lot identification, supplier information, mandatory warning and advisory statements, date marking (including date and time of manufacture with a consumption time within 2 hours), directions for use and storage and nutrition labelling. Believes too much information may render the label unreadable to the intended consumer group and states that size of print needs to be considered. Considers information on how to handle the product most important. Informs that many district health boards have applied the Ministry of Health guidelines for nutritional content of delivered meals. Recommends information on energy, protein, carbohydrate, fat, calcium, iron and fibre should be available in writing on request. <i>New Zealand Dietetic Association</i>.</li> <li>• Not seeking exemption, just clarification. Believes labelling is necessary for the provision of safe food but states that a simplistic resolution must be found otherwise its introduction will be strongly fought by very long serving volunteers. <i>Queensland Meals on Wheels Association Inc.</i></li> </ul>
<p>Option 5- Develop a Code of Practise for the provision of information on packaged delivered meals</p>	<ul style="list-style-type: none"> <li>• Willing to participate in Code of Practice development and would vigorously promote compliance. <i>Aged &amp; Community Services WA</i></li> <li>• Comments ‘Were of COP developed for DMOs to provide their customers with information in an alternative form, anticipate that the relevant information could be provided by manufacturers to a DMO in commercial documentation’. <i>Australian Food and Grocery Council</i>.</li> <li>• Does not support, as it is not enforceable. <i>City of Melville Meal Service</i>.</li> <li>• Believes this provides greater support and flexibility to DMOs, depending on the circumstances. States agencies could assist in establishing and applying the COP. Not aware of a suitable COP. <i>Department of Health and Human Services (Tasmania)</i>.</li> <li>• Not supported. States that stakeholders on both sides are looking for certainty, which will not be achieved by a code of practice. Gives example of existing Code of practise for nutrition claims as to why this option is not supported. <i>NSW Food Authority</i>.</li> <li>• Supports. <i>West Australian Food Advisory Committee</i>.</li> </ul>

Issue	Submission Comments
<b>Labelling of meals provided in hospitals and similar institutions</b>	
General Comments	<ul style="list-style-type: none"> <li>• Believes the necessity to provide labelling information that would assist in an informed choice of the product is both irrelevant and redundant. Considers it essential that any exemption for labelling that is agreed for DMOs, hospitals or other institutions should also be applied to the suppliers of foods to such organisation, except for those requirements that are necessary for food safety. Notes there are significant cost to industry in producing labels on foods that are delivered to DMOs, hospitals and other institutions. <i>Australian Food and Grocery Council.</i></li> <li>• Considers current legislation to be reasonably clear but believes support is merited if an amendment can achieve consistent interpretation. States Option 1 or 2 appear most practical. <i>Department of Human Services Victoria.</i></li> <li>• Supports Option 2 <i>Food Technology Association of Victoria Inc.</i></li> <li>• States issues raised under the labelling of meals provided by delivered meal organisations (DMOs) seem to apply. <i>NSW Food Authority.</i></li> <li>• Proposes that any new requirements clarify the scope of these provisions, i.e. what is meant by ‘similar institutions’. Notes that sometimes institutions supply meals via a recipient ‘order’, but not always. Believes mandatory declarations, warning and advisory statements should be provided or available for health and safety reasons. Notes the possibility of patients not being able to alert staff of allergies or insensitivities prior to meal service. Suggests ingredient lists may be useful in these situations but accepts there are practical difficulties involved. Believes it appropriate that a provision be introduced in the health claim standard to allow hospitals to label meals according to disease states, states this should only apply when the meal service is under the management or guidance of an Accredited Practising Dietitian. <i>Dietitians Association of Australia.</i></li> </ul>
The Current Situation	<ul style="list-style-type: none"> <li>• Comments that the exemption 2(1)(f) ‘food packaged at the express order of the customer’ applies to as little as 50% of the patient population due to the rate of admissions and ongoing diet changes applied to a patient without them having the opportunity to choose. States most hospitals and aged-care settings have the ability to quickly provide full nutritional information of prepared menu items in a paper format to patients if they request. <i>Institute of Hospitality in Healthcare.</i></li> <li>• Comments that product descriptors are being introduced to sites. A consumer needs to contact the nursing staff that would then contact the meal service staff. Kitchens are open approximately 15 hrs per day, information is not available outside this time. States that NIP information is not available for products with nutrition claims but dietetic staff can provide this in normal business hours. Suggests renaming so no claim is made or putting information on the intranet. <i>Quality Food Services.</i></li> </ul>

Issue	Submission Comments
<p>Option 1 – Maintain the <i>status quo</i></p>	<ul style="list-style-type: none"> <li>• Believes there does not appear to be a problem with the current approach, but agrees that the Code could be improved in this area. <i>Department of Health and Human Services (Tasmania)</i>.</li> <li>• Believes that to label these types of meals, which in the main are currently exempt, would be an unwarranted expense. <i>Environmental Health Unit of Queensland Health</i>.</li> <li>• Notes there is no way to tell which meals are exempt at the time the meal ticket is received. States the current system does not allow for NIP information to be provided on a label, but information is available on request. Notes the technical difficulties of applying a label that will remain legible after re-heating/cooking. Unable to estimate the proportion of meals that fall within the scope of the current exemption. Notes that the majority of the 54000 meals provided per week contain at least one allergen. States the effect of the current uncertainty has been minimal as have not been aware of the issue. <i>Quality Food Services. Quality Food Services</i>.</li> <li>• Believes this would require all meals to be fully labelled, as one cannot tell at the time of service if the meal was ordered directly by the client. Calculated the cost of labels alone to be \$415 000. Additional costs would include developing maintaining, producing, applying and removing these labels. Comments that this would contribute to considerable labour costs. Discusses a computerised software management system that ensures patients who are identified as having particular dietary requirements, are only offered and served foods compliant with their diet, thereby protecting public health and safety. <i>Sydney South West Area Health Service</i>.</li> </ul>
<p>Option 2 – Exempt all meals provided by hospitals and similar institutions</p>	<ul style="list-style-type: none"> <li>• States the impact would be negligible as most meals are already exempt and no complaint has arisen from this area. <i>Department of Health and Human Services (Tasmania)</i>.</li> <li>• Supports. State meals provided in these circumstances are ready for immediate consumption and are not intended to be stored or further prepared. <i>New Zealand Food Safety Authority</i>.</li> <li>• Believes this would be problematic for the same reasons raised in Option 1 (<i>status quo</i>). <i>Quality Food Services</i>.</li> <li>• Second most-preferred option. Believes that if hospitals must continue to individually label foods containing any of the 8 mandatory ingredients, the logistical problems are similar to those described for <i>status quo</i>. Notes costs would be more manageable if information can be provided in another form, such as a ‘tray ticket’. <i>Sydney South West Area Health Service</i>.</li> </ul>
<p>Option 3 – Require all packaged meals provided by hospitals and similar institutions to be fully labelled</p>	<ul style="list-style-type: none"> <li>• Believes this option be to unworkable. States this will result in increased labour costs; potential damage to lids and trays by labels; need to change all labels if a substitution occurs; and increased time spent plating and traying food. Doubts patients would find much of the information useful. Notes staff on site can answer questions and current non-labelling is causing no obvious issues or health problems. <i>Australian Cook Chill Council</i>.</li> </ul>

Issue	Submission Comments
<p>Option 3 – Require all packaged meals provided by hospitals and similar institutions to be fully labelled cont.</p>	<ul style="list-style-type: none"> <li>• States this option would cause significant concern and would require significant resource allocation to assist hospitals to comply. Believes this level of labelling is not required for enforcement. <i>Department of Health and Human Services (Tasmania)</i>.</li> <li>• Comments that the choices occur immediately prior to meal times or during plating and are not usually a set combination, therefore, cannot have a pre-determined label applied. <i>Institute of Hospitality in Healthcare</i>.</li> <li>• Believes consumers will be confused by the provision of all prescribed information and are unlikely to use much of the information provided. States the cost of compliance may mean a reduction in food choice. <i>New Zealand Food Safety Authority</i>.</li> <li>• Believes this would present similar issues as those raised under Options 1 and 2. Notes that there is a high risk of labelling error due to the many different combinations of labels that would need to be applied to each meal. Estimate label costs to be \$60 500 per year and labour costs to be \$245 000 per year (total of \$305 500 per year). States that if costs could not be met, meals would not comply. Money that would have been used for renovations, maintenance and equipment would need to be diverted. Would have a major impact on the provision of meals to patients. <i>Quality Food Services. Quality Food Services</i>.</li> <li>• Questions the value and believes it may confuse patients. Calculated the cost of labels alone to be \$415 000. Notes that labour cost are likely to be considerable. <i>Sydney South West Area Health Service</i>.</li> </ul>
<p>Option 4 – Require all packaged meals to be labelled with certain minimum prescribed information</p>	<ul style="list-style-type: none"> <li>• Considers that the current hospital system of identifying patient special dietary needs is sufficient to address public health and safety requirements. <i>Department of Health and Human Services (Tasmania)</i>.</li> <li>• States that the addition of mandatory warning and advisory statements would be difficult and involves similar issues as previously noted. States the cost would be similar to the full labelling requirement (\$305500 per year). <i>Quality Food Services</i>.</li> <li>• Believes a patient tray ticket could be used to impart much of the required information including name of food, lot identification, supplier details, date, and mandatory warnings. Notes direction for use and storage are not relevant for most items as trays are picked up after each meal. Raises the situation of patients removing items from trays for latter consumption and suggests labelling these items with ‘keep refrigerated’ when appropriate. <i>Sydney South West Area Health Service</i>.</li> </ul>
<p>Option 5 – Indicate that a package does not include a covered plate or a tray when used in a hospital or similar institution</p>	<ul style="list-style-type: none"> <li>• Supports. Suggests the exemption is changed to ‘a plate, tray, cup or similar container covered by plastic, foil, a lid, dome or similar covering when used in a hospital or a similar institution for food service, does not constitute a package’. <i>Australian Cook Chill Council</i>.</li> <li>• Believes better clarification on exemptions would assist with enforcement and avoid costly unnecessary labelling. Has adopted a flexible risk-based approach to labelling in hospital situations and for example, has never required covered plated meals to be labelled in accordance with the Code. <i>Department of Health and Human Services (Tasmania)</i>.</li> </ul>

Issue	Submission Comments
<p>Option 5 – Indicate that a package does not include a covered plate or a tray when used in a hospital or similar institution cont.</p>	<ul style="list-style-type: none"> <li>• Tentatively supports. Believes it needs to be clear that this only applies where hospitals and similar institutions provide meals. Comments that it should be stated that when the meal is served, it is for immediate consumption and that all unopened meals are to be discarded if not consumed in that sitting. <i>Environmental Health Unit of Queensland Health.</i></li> <li>• Believes this is most workable, as it reflects current practice. Comments that there is no evidence to support the need for labelling of meal items. States it would not cause any cost increases to an already constrained health budget. <i>Institute of Hospitality in Healthcare.</i></li> <li>• Generally supported. States that food on a plate ought not be considered a package, but would seem to be within the definition in the Model Act and adopted verbatim in NSW. Suggests further consideration be given to what information might be available to the consumer on demand, to address health issues, nutrition issues, social and religious issues. <i>NSW Food Authority.</i></li> <li>• Supports. States that this will have no impact on the current provision of plated meals. Believes there is less likelihood of harm from allergens when the meal provider knows the consumer. Recommends that food prepared at another site and transported to the user site should not be exempt from the labelling requirements of the Code. States food delivered hot from an off-site provider should have all nutrition information available on request and should be labelled with date and time of manufacture, with a stated consumption time within 2 hours, or advice to refrigerate immediately. <i>New Zealand Dietetic Association.</i></li> <li>• Believes covered plated meals are not considered packaged and are currently therefore exempt from labelling. States this point could be clarified in an editorial or in a user guide. <i>New Zealand Food Safety Authority.</i></li> <li>• Considers impact will be minimal and allow focus to be on HACCP introduction. States that this should be extended to cover cups and bowls. Notes it should be feasible to ensure that labels for salads, sandwiches, deserts and in-house prepared supplements have labels that contain at minimum the product name, advisory statements and mandatory warnings. Notes items are currently day-dotted. <i>Quality Food Services.</i></li> <li>• Preferred option. Reflects current situation. Recognises that information should still be able to be provided in a timely manner (e.g. CBORD system and relevant controls). <i>Sydney South West Area Health Service.</i></li> <li>• Supports. States an inability to label special diets without accompanying nutrient labels should not negatively impact on patient meal services. <i>West Australian Food Advisory Committee.</i></li> </ul>

## **Implementation and Enforcement Advisory Group**

### **Role**

The role of the Implementation and Enforcement Advisory Group (IEAG) is to provide an informal forum to discuss issues of enforcement and implementation related to the review of clause 2 in Standard 1.2.1.

### **Purpose**

The purpose of the proposed IEAG is to:

- assist FSANZ in clarifying the scope of the review of clause 2 in Standard 1.2.1;
- provide information on current enforcement issues relating to compliance with clause 2 of Standard 1.2.1; and
- consider, provide feedback and discuss the proposed regulatory changes to clause 2 of Standard 1.2.1 from both an enforcement and implementation perspective.

### **Membership of the Committee in 2006**

Current membership of the IEAG as at November 2006 is outlined below. It should be noted that representation from the Australian Quarantine (AQIS) was not available in 2006

Mr Bill Porter	New South Wales Health Department
Mr Walter Arrow	Health Department of Western Australia
Ms Tenille Fort	Queensland Department of Health
Mr John van den Beuken	New Zealand Food Safety Authority