

Cancer Council NSW submission into the Australia and New Zealand Ministerial Forum on Food Regulation review of fast food menu labelling schemes

March 2018

Introduction

Cancer Council NSW's vision is a cancer-free future. Cancer Council NSW aims to reduce cancer in the NSW community by encouraging people to lead healthy, cancer-smart lifestyles, and to advocate for government to take action to reduce cancer risk.

Cancer Council NSW appreciates the opportunity to contribute to the review of fast food menu labelling schemes. We are uniquely positioned to comment on this issue due to the extensive research we have conducted into fast food environments, including menu labelling. We believe that access to nutrition information enables customers to make healthier food choices. However this consultation presents an opportunity to ensure the implementation of menu labelling across Australia is consistent and strengthened to address some of the issues with the state-based legislations.

The *Principles for Introducing Point-of-Sale Nutrition Information in Standard Food Outlets* developed by the Food Regulation Standing Committee (FRSC) state that "...any change should contribute to improving public health outcomes".¹ As such, any future action on menu labelling should be aimed at achieving this priority.

We believe that a consistent approach to menu labelling should be implemented across Australia. This will ensure that customer are exposed to the same information for the same products at the same chains no matter where they are in Australia. It will also reduce the burden on fast food outlets having to comply with multiple schemes.

Cancer Council is a member of the Australian Chronic Disease Prevention Alliance (ACDPA), and as such, we also support the recommendations from the ACDPA submission.

Summary of recommendations

Cancer Council NSW recommend the following:

1. High-quality research conducted in real-world settings is needed to evaluate the effectiveness of kilojoule menu labelling in reducing energy contents of meals purchased at fast food restaurants. This could include research on customer behaviour, reformulation and monitoring the offerings of menu items available.
2. Menu labelling legislation should be expanded to encompass vending machines.
3. Menu labelling legislation should be expanded so that any business selling a standardised menu, with outlets meeting the state thresholds should be required to comply with menu labelling legislation.
4. The threshold for number of outlets included under the menu labelling legislation should be reduced to 10 in a state or territory

5. Stricter guidelines on how kilojoules must be displayed on menu boards are introduced and enforced, to enable customers to see and use the kilojoules. Specifically, guidelines from the US should be adopted in relation to:
 - colour, in that kilojoules should be displayed in the same colour or a colour at least as conspicuous as that used for the name of the associated standard menu item;
 - contrast, in that kilojoules should be displayed with the same contrasting background or a background at least as contrasting as that used for the name of the associated standard menu item.
 - If bolding is used for the product name and/or price, then the kilojoules should be required to be in bold also, to make kilojoules as prominent as price and product name.
6. All fast food chains should be required to provide the kilojoule values for all menu items and meals available, either on the menu board or other in-store information.
7. All components for customised menu items should have kilojoules listed at the point of sale.
8. Kilojoules should be displayed for all menu items and meals at the same time, to allow informed purchases by customers.
9. Kilojoules should be displayed at the same time as the name and price of each menu item.
10. Electronic menus, on chain websites, mobile apps and ordering services, should all be treated the same way as in-store menus. That is, they should require kilojoules information for all menu items and components, and be covered by the same legibility and display requirements as in-store menus.
11. Pre-packaged items should be included in the definition of 'standard menu item', and therefore subject to the same kilojoule menu labelling conditions.
12. Public education campaigns on kilojoules, and how to use menu labelling must be funded to accompany menu labelling implementation in-store. This education should be ongoing and consistent rather than a one-off activity.
13. Fast food chains should be required to provide easily accessible and understandable nutrition information encompassing energy and nutrients of public health concern.
14. An interpretive menu labelling system such as the Health Star Rating should be investigated. Consideration should be given to providing Health Star Ratings alongside kilojoule menu labelling to align with what is already in the grocery sector.

Consultation question 1: Are you aware of any other pending or completed evaluations that have relevance to the Australian experience? If yes, please provide results and references with your response where possible.

There have been four systematic reviews published since the 2015 review cited in the Consultation Paper: one in the general population in real-life settings;² one examining impact of menu labelling on different socio-economics groups;³ one looking at the impact in children and adolescents;⁴ and one examining the impact of menu labelling on purchasing and consumption of healthier items.⁵ These reviews concluded that the effectiveness of menu labelling in reducing the energy content of purchases was limited but promising. However, all four reviews stated that this was likely due to a lack of high-quality studies in naturalistic settings.

A recent Cancer Council NSW study examined the changes in energy contents of menu items from the five largest fast food chains before and after the introduction of menu labelling in NSW.⁶ The study found that no chains had systematically reformulated the energy content of their menus post-implementation of menu labelling.⁶

Recommendation 1:

High-quality research conducted in real-world settings is needed to evaluate the effectiveness of kilojoule menu labelling in reducing energy contents of meals purchased at fast food restaurants. This could include research on customer behaviour, reformulation and monitoring the offerings of menu items available.

Consultation question 2: Are there any other issues in relation to exempt businesses that should be considered?

The foods provided in vending machines^{7, 8} and in some of the exempt settings, such as cinemas and convenience stores, are often energy-dense and nutrient-poor. For example, more than 41% of convenience store revenue in Australia comes from beverages, snacks, confectionery, ice cream and ready-to-eat foods,⁹ many of which are unpackaged, ready-to-eat products. Providing kilojoule menu labelling in settings where many unhealthy foods are offered will increase the opportunities for customers to be exposed to kilojoule menu labels and the 8700kJ daily reference statement, which may lead to increased familiarity and knowledge and improvements to the nutrition quality of purchases when in these outlets.

Consultation question 3: What could be done to ensure kilojoule information is available in as many outlets as possible? What are the pros and cons of your suggested approach?

The range of food outlets that are exempt from menu labelling varies between the states. To ensure consistency across the country, any chain outlet with standardised menus meeting the state thresholds for the number of outlets/machines should be included in the menu labelling legislation as it provides a level playing field for all businesses. Additionally, menu labelling should be extended to encompass vending machines.

The benefit of this is that the public will be exposed to kilojoule menu labels and reference statements in a wider range of settings, and this may increase the public's 'kilojoule literacy'.

It also enables customers to make better choices when purchasing ready-to-eat foods in a range of settings out of home.

These new businesses will need to be supported to introduce these requirements, increasing burden on state enforcement agencies. It will also increase the number and type of outlets that will need to be monitored once the regulation is implemented. However, this process has been implemented in NSW, showing that it can be achieved, especially as most products in vending machines already carry Nutrition Information Panels.

Additionally, to increase the exposure of customers to menu labelling, we support lowering the threshold that businesses need to meet to be covered by the legislation. That is, we recommend the threshold be reduced to include all businesses with 10 or more outlets per state. The threshold is designed to reduce the burden on small businesses, however the Parliament of Australia defines small businesses as those with less than 20 employees.¹⁰ Therefore reducing the threshold to 10 in a state should not impact on small businesses as it is unlikely that a chain with 10 outlets would have less than 20 employees.

Recommendation 2:

Menu labelling legislation should be expanded to encompass vending machines.

Recommendation 3:

Menu labelling legislation should be expanded so that any business selling a standardised menu, with outlets meeting the state thresholds should be required to comply with menu labelling legislation. This includes, but is not limited to, all the businesses listed in Table 1.

Recommendation 4:

The threshold for number of outlets included under the menu labelling legislation should be reduced to 10 in a state or territory.

Consultation question 4: Are there any other issues in relation to legibility that should be considered?

In our research on the fast food environment, including in-store data collection, we have encountered several issues with legibility. These include:

- Kilojoule menu labelling presented in dark brown font on a black background, with insufficient contrast.
- The kilojoule, name and/or price font being the same size, but the name and price being in bold, making the kilojoule value less visible.
- The kilojoule menu label being in the same font as the name and/or price but displayed in a different colour that has less contrast and poorer legibility.
- The kilojoule menu label being in the same font as the name and/or price but the name and price are highlighted with a lighter colour to make it stand out, where the kilojoule menu label is not.

Consultation question 5: What can be done to ensure kilojoule information is as easy to use as possible by the consumer?

To improve customers' ability to see and read the kilojoule menu labels, tighter regulations should be introduced. Two examples of how this could be improved can be seen in the menu labelling legislation from the United States (US), which states that the number of calories must be stated:¹¹

- *"In the same color, or a color at least as conspicuous as that used for the name of the associated standard menu item; and*
- *With the same contrasting background or a background at least as contrasting as that used for the name of the associated standard menu item"*

Recommendation 5:

Stricter guidelines on how kilojoules must be displayed on menu boards are introduced and enforced, to enable customers to see and use the kilojoules. Specifically, guidelines from the US should be adopted in relation to:¹¹

- colour, in that kilojoules should be displayed in the same colour or a colour at least as conspicuous as that used for the name of the associated standard menu item;
- contrast, in that kilojoules should be displayed with the same contrasting background or a background at least as contrasting as that used for the name of the associated standard menu item.
- If bolding is used for the product name and/or price, then the kilojoules should be required to be in bold also, to make kilojoules as prominent as price and product name.

The NSW regulations state that kilojoules must be present for each standard menu item listed on the menu where there is a name or price.¹² However, there is no requirement for chains to present the whole menu on the menu boards. Alternatively, chains often provide only kilojoules for meals rather than listing single menu items. Thus, in-store, chains are only presenting small sections of their menus on the menu boards, even though other products are available for purchase. For example, a customer cannot readily find the kilojoule content of a serve of fries as it is not displayed on the menu board except within a meal yet it can be purchased separately. This limits the amount of information available for customers, making it difficult for them to compare menu items and make informed fast food purchasing decisions. Requiring fast food chains to provide the kilojoules for all menu items will enable customers to use these values to base their purchasing decisions.

Recommendation 6:

All fast food chains should be required to provide the kilojoule values for all menu items and meals available, either on the menu board or other in-store information.

Consultation question 6: What can be done to facilitate businesses to address legibility issues? What are the pros and cons of your suggested approach?

Cancer Council NSW does not have anything further to add on this question.

Consultation question 7: Are there any other issues in relation to menu customisation that should be considered?

The availability of kilojoules on customisation menus is the main issue that should be addressed. See response to question 8.

Consultation question 8: What could be done to enable healthier choices when customising menu items? What are the pros and cons of your suggested approach?

We believe that customers should be provided with enough nutrition information to enable them to make healthier choices. As such, options should be explored to ensure that kilojoule values are available for all single ingredients. This could be achieved at self-service display units, especially if they have a menu item 'builder', where the customer selects individual components. Similar to the way the price accumulates for these items, the kilojoule content could also accumulate.

Alternatively, written materials could be provided at the point-of-sale outlining the kilojoules in each of the components. This would enable all nutrition information to be provided, even if not on the menu board. However, this would require customers to add up the kilojoules for each menu item, reducing ease and likelihood of use.

Recommendation 7:

All components for customised menu items should have kilojoules listed at the point of sale.

As well as menu labelling, introducing new, healthier menu items and/or systematic reformulation of menu items and components has the potential to significantly reduce the energy and nutrients of public health concern, as they do not require behaviour change by customers.^{13, 14} Setting and enforcing reformulation targets has greater potential to facilitate healthier choices across all fast food, rather than just choices from customised menu items.

Consultation question 9: Are there any other issues in relation to rolling menu boards that should be considered?

The display of kilojoules at the same time as the name and price of the menu item is one issue. The other is that chains often use rolling menu boards to only show some menu items or meals, and not the entire menu. This means that customers are not able to access kilojoules for all menu items or meals at the same time, for comparison purposes.

Recommendation 8:

Kilojoules should be displayed for all menu items and meals at the same time, to allow informed purchases by customers.

Consultation question 10: What could be done to ensure kilojoule information is easy to access and that consumers can compare products easily? What are the pros and cons of your suggested approach?

As a minimum, Queensland's requirements for the kilojoule content to appear at the same time as the price and/or name of the menu item should be extended across all states and territories. If fast food chains already have to comply with this in one state, there should be little burden in introducing this across the other states and territories. However, we believe this should be extended so that the kilojoules should be displayed at the same time as the name *and* price. This would ensure that the name of the menu item is never displayed without the kilojoules present.

In many outlets, computerised registers display the customer's order along with the price. The kilojoules, along with a cumulative total and proportion of daily intake, could also be displayed at this time, where registers allow this. The same could apply to self-service facilities within chains. The downside of providing a cumulative total is that often customers will order for multiple people, and so the cumulative total may not be applicable in that situation.

Recommendation 9:

Kilojoules should be displayed at the same time as the name and price of each menu item.

Consultation question 11: Are there any other issues in relation to on-line ordering that should be considered?

Online ordering provides the opportunity for kilojoules to be provided easily at the time of selection. As the available menu items are provided to the ordering site by the chain, these services should also be able to provide kilojoules information at the time of selection. As online ordering, whether it be on a chains' own website or an ordering service's website, relies on a menu that customers choose from, these should be considered a menu and therefore require the publication of kilojoules alongside the price.

In relation to electronic catalogues, these are simply electronic menus and should be treated in the same manner, especially at the point-of-sale. As such, kilojoules should be required along with the price, and the provisions around kilojoule display and legibility should also apply.

Consultation question 12: What could be done to ensure kilojoule information is included on all web-based ordering platforms? What are the pros and cons of your suggested approach?

In regulation that specifies how menu labelling should be enacted, all menus, regardless of whether they are physical or electronic (both on the chain's website, in-store ordering platforms and on ordering service websites), should be treated the same way and therefore require kilojoules to be listed for all menu items alongside the price. The provisions around kilojoule display and legibility should also apply here. Given that chains have to provide this information in-store, this should not be difficult to achieve. An advantage of this approach is that customised menu items and single components can list kilojoule values, and cumulative totals are achievable in the same way prices are totalled in an online order. The same applies for mobile ordering applications (apps) on devices.

Recommendation 10:

Electronic menus, on chain websites, mobile apps and ordering services, should all be treated the same way as in-store menus. That is, they should require kilojoule information for all menu items and components, and be covered by the same legibility and display requirements as in-store menus.

Consultation question 13: Are there any other issues in relation to combination meals that should be considered?

Cancer Council NSW does not have anything further to add on this question.

Consultation question 14: What could be done to ensure kilojoule information is provided for the whole meal? What are the pros and cons of your suggested approach?

It can be argued that the definition of 'standard' menu item should include pre-packaged products, including drinks. These products are the most standardised of any foods sold by fast food chains as they have predetermined serving sizes and consistent ingredients. As such, we believe that meals containing these drinks should have kilojoules displayed as sold, as per the NSW interpretation.

We strongly believe that customers should be able to access information on all meal combinations without having to calculate the total kilojoules themselves. With this in mind, chains should provide information for all meal combinations in-store and online (refer to Recommendation 7).

Recommendation 11:

Pre-packaged items should be included in the definition of 'standard menu item', and therefore subject to the same kilojoule menu labelling conditions.

Consultation question 15: Are there any other issues in relation to additional and interpretive information that should be considered?

Customers are unable to estimate levels of nutrients of public health concern, and they frequently underestimate the amount of energy, total and saturated fat in foods.¹⁵ This means that even if they have the desire to choose more healthy options, they are not equipped with the skills and information to do so.

Further, our previous research has shown that it is difficult for customers to access information on nutrients (other than energy) in-store and in some cases information that was previously available was withdrawn when kilojoule menu labelling was implemented.¹⁶ This makes it difficult for customers to make fully informed fast food choices, and prevents people with specific health problems (for example people with hypertension trying to reduce their sodium intake) to choose foods based on these health issues.

Multi-strategy approaches are needed to ensure that menu labelling is as effective as it can be. Generally, the public will benefit from more education about kilojoules and how to use menu labelling.

Recommendation 12:

Public education campaigns on kilojoules, and how to use menu labelling must be funded to accompany menu labelling implementation in-store. This education should be ongoing and consistent rather than a one-off activity.

Consultation question 16: What could be done to ensure kilojoule information is as easy to interpret as possible? What are the pros and cons of your suggested approach?

To enable customers to make healthier choices, nutrition information including nutrients of public health concern (as opposed to just energy) should be available for all menu items in-store. This could be provided in an information sheet for customers and available on websites. To assist customers with at-a-glance information to encourage healthier choices, taking into account both positive and negative nutrients, we propose investigation of an interpretive labelling system that encompasses multiple nutrients, such as the Health Star Rating (HSR).¹⁷ Applying the HSR would also align the food service sector with a scheme that customers are already familiar with from the grocery sector. Existing limitations of the algorithm underpinning the Health Star Rating system would need to be investigated further (for example, juice and potato chips scoring highly due to the high fruit/vegetable content).¹⁸ However including both kilojoules and a HSR may be more effective than either scheme alone.

It is important that the consideration of an interpretive label does not delay the implementation of menu labelling nationally, or strengthening existing menu labelling laws to address the issues raised in the consultation paper.

Recommendation 13:

Fast food chains should be required to provide easily accessible and understandable nutrition information encompassing energy and nutrients of public health concern.

Recommendation 14:

An interpretive menu labelling system such as the Health Star Rating should be investigated. Consideration should be given to providing Health Star Ratings alongside kilojoule menu labelling to align with what is already in the grocery sector.

Consultation question 17: Are there any other issues in relation to kilojoule display that should be considered?

Cancer Council NSW does not have anything further to add on this question.

Consultation question 18: What could be done to ensure kilojoule information is as easy to use and interpret as possible? What are the pros and cons of your suggested approach?

We strongly believe that adding an interpretive element alongside the kilojoule menu label is the best way to ensure that kilojoules are as easy to use and interpret as they can be. Please refer to our discussion in Questions 4-5, 8-10, 15-16 and Recommendations 5-9, 11-14.

Consultation question 19: Are there any other issues with current menu labelling schemes that should be considered during this review? Please provide information to support your response.

Cancer Council NSW does not have anything further to add on this question.

Conclusion

Cancer Council NSW commends the Australia and New Zealand Ministerial Forum on Food Regulation (the Forum) for conducting this review on menu labelling in Australia. By implementing the recommendations presented in this submission, the Forum can ensure a nationally-consistent approach that is more effective in providing customers with the information they need to make healthier fast food choices, reducing the impact of fast food on the health of the Australian population.

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