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Dear Ms Honeyman

### **Heart Foundation submission on Health Legislation Amendment Bill 2015**

The Heart Foundation welcomes the opportunity to provide a submission on the *Health Legislation Amendment Bill 2015*. The Heart Foundation's comments relate only to the amendments to the *Food Act 2006* within this Bill.

The Heart Foundation commends the Queensland Government for implementing the Fast Choices kilojoule menu labelling legislation, requiring fast-food chains, snack-food and drinks chains, bakery chains, café chains and supermarkets to display nutritional information. This information will assist Queenslanders to make informed and healthier choices when purchasing food and drinks in outlets covered by the legislation.

The Heart Foundation has specific comments on the proposed legislation as follows:

#### **1. A coordinated approach to legislation**

The Heart Foundation recommends that the legislation be supported by the formation of a reference group or steering committee, which would include representation from (but not limited to) the diverse sectors of the community that kilojoule menu labelling will impact upon:

- Queensland Government/Queensland Health
- Non-government public health sector (NGO's, universities, peak bodies)
- Food industry
- Local government/LGAQ
- Consumer health organisations/advocates

The principal activities of this group would be to coordinate and facilitate the planning, implementation, compliance monitoring and evaluation, and communication of the initiative to all relevant stakeholders.

An example of this in practice is the Fast Choices and Nutrition Labelling Reference Group in NSW, which has provided feedback and advice on compliance, development of the consumer education campaign, evaluation and policy developments. Even after two years, this working group continues to be vital in dealing with emerging issues not specifically covered in the legislation, for example, the arrival of digital menu boards.

## 2. Consistency of legislation

The Heart Foundation supports the approach for Queensland's legislation to be mostly consistent with the NSW legislation and the nationally agreed *'Principles for Introducing Point-of-Sale Nutrition Information at Standard Food Outlets'* (National Principles), and broadly consistent with SA and ACT legislation. We do however have some recommended exemptions in section 3 below.

We want to ensure that the approved legislation:

- Should contribute to improving public health outcomes;
- Be consistent with a nationally agreed approach regarding definitions and explanations of terms, requirements for the display of nutrition information, and the provision of a 12-month transition/compliance period for industry;
- Be supported by a communication strategy that engages and informs appropriate stakeholders
- Include an evaluation strategy to assess the impact of any point-of-sale approach introduced, and
- Not preclude jurisdictions from expanding point-of-sale nutrition information at a later date to also include disclosure of other information such as sugar, sodium and fat content.

## 3. Exemptions to legislation

### 3.1 Types of outlets

The Heart Foundation supports the current businesses included in the legislation with either 20 outlets in Queensland or 50 outlets nationally, including fast food chains, snack-food and drink chains, bakery chains, café chains and supermarkets.

However, the Heart Foundation recommends that exemptions should **not** be made for:

- convenience stores
- cinemas
- service stations

Given that the purpose of this legislation is to give consumers information on the meals and snacks most frequently purchased out of home, it needs to focus on the food, not the outlet. There is no justifiable reason why these types of businesses should be made exempt from this legislation, notwithstanding exemption in the NSW legislation. The Heart Foundation supports consistency of legislation according to the National Principles, and exemptions for these businesses are not declared in these principles.

Although foodservice may not be the major business activity of convenience stores, cinemas and service stations, these businesses serve an increasing number of meals, drinks and snacks daily.

Queenslanders deserve to have access to the equivalent nutrition information from all chain outlets from where they are sourcing ready-to-eat standard food and drink items, particularly as the items commonly sold by these types of outlets tend to be energy-dense and nutrient-poor (or 'junk' foods).

Including these outlets would also provide a level playing field for all large businesses serving ready-to-eat food and drinks to the Queensland population.

## 3.2 Supermarkets

### 3.2.1 Supermarket retail floor area - 1000m<sup>2</sup>

The Heart Foundation does **not** agree that supermarkets with less than 1000m<sup>2</sup> retail floor area should be exempt from the legislation. Whilst this cut off has been used in menu labelling legislation in NSW, this delineation is not supported by the National Principles and therefore there is no justifiable reason for this exemption in the Queensland context.

Examples of how this cut off is at odds with the intent of the legislation are as follows:

- Regional consumers deserve the same information as city dwellers

In some regional and rural areas the supermarket is the primary supplier of ready-to-eat food and there may only be one major supermarket in town. Often this supermarket may have less than 1000m<sup>2</sup> of retail floor area. Therefore people living in these towns would not have access to the same information as people living in metropolitan areas.

We already know that some Queenslanders are disadvantaged in health outcomes by where they live. For example, those living in rural and remote areas in Australia are 40% more likely to die from cardiovascular disease than people living in major cities. They are also 30% more likely to be hospitalised for cardiovascular disease<sup>1,2</sup>. Denying access to this important nutrition information would further widen this gap in health.

- Urban consumers deserve the same information on the same foods

Due to increases in city-based population, the major supermarkets in Australia are aiming to increase market share in densely populated areas by opening smaller, convenience style stores, in some cases measuring 200 – 400m<sup>2</sup>. These stores are designed to compete with convenience stores<sup>3</sup>, which includes selling a greater proportion of convenience foods, such as ready-to-eat standard food items.

Therefore, the current proposed cut-off of 1000m<sup>2</sup> of retail floor space would mean exactly the same food being sold in these stores would not be labelled in the same way as that sold in the larger sites.

### 3.2.2 Display of nutritional information – per 100g

The Heart Foundation does **not** agree with the proposal that supermarkets should be permitted to display kilojoules per 100g of a standard food item as they currently do in NSW. Instead, we recommend that the average kilojoule content for the whole item is displayed.

The Heart Foundation supports the method recommended in the National Principles:  
*The method of determining the average energy content of each Standard Food Item should be in accordance with Standard 1.2.8 of the Food Standards Code, making necessary adjustments to ensure that the calculation is done in relation to the whole of the food item rather than per 100g.*

Allowing supermarkets to label foods with kilojoules per 100g rather than the whole food item adds an **extra layer of complexity for the consumer** and will not “...assist consumers to compare the kilojoules between different food and drinks”, or provide “...transparency, consistency and accuracy of nutritional information”, as outlined in the policy objectives of the legislation.

Consumers already do not understand kilojoule labelling well. To be able to calculate the total kilojoules contained in one food item, and indeed compare to another item, the consumer would need to find the weight of each item and make their own calculations.

For example, if a consumer wanted to make a better choice between a salad weighing 280g and a sandwich weighing 175g, they would need to multiply the first kilojoule total by 2.8 and the second by 1.75.

Once again, this is at odds with the intent of the legislation, which is to provide easy to understand nutrition information at a glance so people can make a healthier choice on the go.

## **4. Monitoring and compliance**

### **4.1 Offences and penalties**

The Heart Foundation supports the increase in penalty for intentional contravention of this mandatory scheme to 500 penalty units (\$58 700 for an individual), to be consistent with other penalties in the Food Act.

Whilst the consequences of non-compliance are not as immediately urgent as, for example, food contamination, the long term consequences of the widespread availability, marketing and consumption of unhealthy foods and drinks is a primary driver of the obesity epidemic in Queensland, bringing significant costs to the health system, society, and to the individual.

It will be important that a schedule for monitoring and compliance is developed at the outset, so that compliance to this legislation is not relegated to the non-urgent and therefore not enforced. It is critical to public health that this is prioritised by the state and local governments. Local governments may be incentivised by the ability to retain any fines collected.

### **4.2 More capacity and resourcing**

At the Parliamentary Committee Hearing on the Health Legislation Amendment Bill 2015 on Wednesday 2 December 2015, Dr Jeanette Young stated that Queensland Health environmental health officers will be tasked with enforcing this legislation, and that they will absorb this new responsibility into their workload.

The Heart Foundation strongly recommends an increased investment in the capacity of this workforce with more positions, resources and training.

With only 122 environmental health officers state-wide with busy workloads, we are concerned about the consistent enforcement of this new legislation. Research has shown that environmental health officers' roles are characterised by a heavy, unpredictable workload. The most important factor influencing their work practice was the assessment of risk to public health; responding first to incidents posing the highest danger<sup>4</sup>.

The Chief Health Officer advised that approximately six new Queensland food businesses will be captured under these new requirements. All other chains will already have been exposed to similar legislation in other jurisdictions. It is therefore expected that the transition period of twelve months to comply, along with the support of Queensland Health, should lead to strong compliance.

The Heart Foundation recommends that support also be provided to those smaller businesses not captured by the legislation, but who wish to **voluntarily display** nutritional information.

It would be disappointing to see any unintended consequences from this legislation, such as a disincentive to businesses who want to do the right thing but find it too difficult, or smaller businesses attracting hefty penalties because they were not aware of their obligations.

#### 4.3 Display of nutritional information

For consistency, the Heart Foundation agrees with the *Principles for Introducing Point-of-Sale Nutrition Information in Standard Food Outlets* outlining that at the very minimum, the average kilojoule content of each standard food item should be displayed on each menu, along with a statement advising of the average daily kilojoule intake for adults (8700kJ).

However, we also advocate strongly for consideration of expansion of point-of-sale nutrition information to also include disclosure of other information, once the initiative has gained traction. Whilst the National Principles suggest 'sugar, sodium and fat content', the Heart Foundation would recommend more unequivocal wording in the *Food Regulation 2006* of the nutrients proven to have a negative (or positive) effect on health, as follows:

- saturated fat and trans fat
- sodium/salt
- added sugars
- dietary fibre

#### 5. Consumer education and campaign

Consumers agree that nutrition information should be available at point-of-sale in fast food outlets. A recent Heart Foundation survey<sup>5</sup> in Queensland found that 97.1% of people supported the introduction of a Kilojoule Menu Labelling System in fast food and snack chains throughout Queensland.

SA Health survey data from the Health Monitor telephone survey showed that over 90% of South Australians believe that food outlets such as fast food outlets, takeaways and cafes should make it clear what is in their food in order to help people make healthier choices<sup>6</sup>.

This survey also found that around 80% of respondents believed that to be useful, this information should be displayed on the menu. Almost two thirds of people report they would use kilojoule labelling on menus to decide what to order. The survey was conducted in August 2010 and July 2011 and surveyed 2039 South Australian adults aged 18 years and older<sup>6</sup>.

The BIS Foodservice Report 2013<sup>7</sup> survey found a high level of consumer agreement to the following statements (on a scale of 1 – 7; 7 = highly agree):

- Fast food outlets have a responsibility to disclose the amount of saturated fat/salt/ kilojoules in their food to consumers at the time of purchase - such as on the menu board and not on the internet (5.3)
- Kilojoules should be listed next to each food item on the menu board (5.1)
- Saturated fat levels should be listed next to each food item on the menu board (5.1)

A well-funded, ongoing **consumer education campaign** is vital to enhance and support a menu labelling scheme in Queensland. It is vital that this campaign reaches primary consumers of fast food and drinks and therefore includes a strong multi-media strategy incorporating the latest in digital and social media including twitter streams, mobile apps, selected online advertising, Facebook and so on.

Whilst there has been some debate over how effective menu labelling is in various population groups, an update of the evidence of the effectiveness of menu labelling in 2014 by the Danish Cancer Society<sup>8</sup> showed that:

‘Various socio-demographic and purchasing patterns were recorded in some of the studies in an effort to detect which population segments were more likely to respond to Menu Labelling. Body mass index (BMI), race/ethnicity, age, and socio-economic status (SES) had little impact on the effective use of Menu Labelling.

There was a tendency for those who have an interest in health, and were self-reported ‘users’ of nutrition labels when supermarket shopping, to be more attentive to Menu Labelling. Although in one study the level of ‘interest in health’ had no impact. Another study showed those who were least health conscious to be most responsive to energy information. Females were found to be more attentive to Menu Labelling compared to males in three studies though two studies showed no differences between the genders.’

Based on the approach used in the 8700 campaign<sup>9</sup> in NSW, and given the limited budget in Queensland for consumer education, the Heart Foundation recommends:

- Segmenting the audience of the campaign to target high users of fast food chains;
- Focussing on establishing healthy habits in younger people/adolescents;
- Linking any new information to currently funded social marketing healthy living campaigns (e.g. Healthier. Happier) and leverage promotion via other funded healthy living programs such as Heart Foundation Walking, 10,000 Steps and Health for Life!
- Using contemporary channels such as digital tools and social media to add value to traditional channels such as posters and radio advertising; and
- Leveraging any value-add information and communication methods that industry can provide as part of the implementation of Fast Choices.

The Heart Foundation reiterates our call for **increased and ongoing funding for this consumer and industry education campaign**. As recommended in the Heart Foundation Queensland Budget Submission 2015-2016<sup>10</sup>, a greater investment of \$7.5 million over three years would be more commensurate to the issue than the \$525,000 currently allocated for both consumer education and evaluation.

## 6. Evaluation

As this legislation is essentially a public health initiative, it is essential that comprehensive evaluation is conducted to measure whether the aims and objectives have been met. The Heart Foundation commends the NSW Food Authority rationale for evaluating the initiative<sup>11</sup>.

To be able to measure the impact of the legislation and accompanying consumer education campaign, baseline data will be required. To gather baseline data on consumer knowledge, attitudes and behaviour, it is recommended that a similar methodology is used in Queensland as that used in NSW<sup>11</sup>. In particular we recommend the use of ‘intercept surveys’ which ask consumers directly in real time about purchasing behaviour.

Additionally, collection of information on the current nutritional profile of menu items should be conducted before any legislation is introduced. At this stage there is no current database of nutrition information for foodservice settings available, so the most manageable option would be to investigate both online and in-store nutrition information for a representative sample of fast food outlets, both those covered and not covered by the legislation, and re-measure this after two years of implementation.

The Heart Foundation suggests the following measures for evaluation:

- Level of compliance by premises captured in the legislation;
- Level of knowledge and understanding of consumers about the nutritional content of the foods purchased at fast food outlets;

- Level of knowledge and understanding of consumers about their own energy requirements;
- Food purchasing behaviour at fast food outlets; and
- Changes in the nutritional profile of menu items sold in fast food outlets.

The Heart Foundation will work in partnership with the Department of Health in the planning and implementation of evaluation for this initiative.

## **7. Transition period for industry**

The proposed 12 months transition period for industry following the passage of legislation through Parliament is consistent with NSW. It is important that this timing is not extended, as 12 months is adequate for transition given that many businesses have had exposure in other jurisdictions.

## **8. Review period for legislation**

We recommend that as in NSW, the legislation includes a required review to commence 12 months after the legislation comes into effect and be tabled in Parliament within 12 months after this date.

## **9. Conclusion**

In Queensland fast food consumption is concerning with 30% of adults and 48% of children eating takeaway food at least weekly<sup>2</sup>. There are many reasons why people choose fast food, ranging from the convenience and location of fast food outlets to the perceived low cost and frequent marketing of fast food.

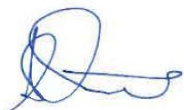
Foods eaten away from home have been shown to be more energy dense and of larger portion sizes than meals prepared at home; and frequency of eating outside the home is related to weight status, with frequent fast food consumption associated with weight gain over time<sup>12</sup>.

The drivers of obesity are complex, however there is growing global consensus that provision of nutrition information for foods eaten out of the home is an important tool for consumers to make better choices, and also to encourage food industry to offer healthier options.

Poor diet is a key modifiable risk factor in reducing the growing chronic disease burden in Queensland. The Heart Foundation wholly supports the Queensland Government in passing this important legislation, which is consistent with the Preventive Health Branch Health and Wellbeing Strategy Priority Action Area 1: Public policy and legislation – creating environments that make it easier to lead healthy lives.

The Heart Foundation is available for consultation and would be pleased to appear as a witness. I look forward to hearing the outcomes of the Committee's inquiry.

Yours sincerely



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Chief Executive Officer

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