

Review required by Section 106R
Food Act 2003

Review of Fast-food Labelling Requirements ("Fast Choices")

November 2012

Review Report

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Copies of this report can be downloaded from the NSW Food Authority website:

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The full text of the *Food Act 2003* and associated regulations, containing the requirements for certain food outlets to display nutrition information can be downloaded without charge from the NSW Government legislation website: www.legislation.nsw.gov.au

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Preface and summary

I am pleased to table this report on the review of the *Food Act* (2003) Division 4 and the regulations made under this Division (Fast Choices legislation). This report fulfils my obligations under the legislation.

At the time the Fast Choices initiative was developed, just over half of adults in NSW (16 years and over) were overweight or obese, a significant increase from previous years. Both the increasing incidence of obesity related chronic diseases in NSW coupled with the increased financial burden on government and individuals initiated government action in the form of the Fast Choices legislation. Reducing the rate of overweight and obesity continues to be a priority of government. The Fast Choices legislation is one of a number of measures identified by Government in the current NSW2021 state plan helping promote and enable healthier food choices in the NSW community.

The Fast Choices legislation sets out labelling requirements for affected fast food outlets to provide nutrition information (in the form of energy) at point of sale. The fast food environment was chosen because a high volume of food purchases are made at fast food outlets and there was potential to provide public health information at point of sale to a targeted audience. Importantly, foods eaten away from home also tend to contain more kilojoules per serve and are usually of a larger portion size than meals prepared at home.

The policy objectives of the Fast Choices legislation include the creation of a standardised nutrition information system at fast food chains providing consumers with clear consistent energy information of food sold at fast food outlets. More broadly, the legislation supports population health activities that are working to minimise and prevent overweight, obesity and chronic disease in NSW consumers.

The review has found that the policy objectives of the Fast Choices legislation remain valid and the legislation in its current form remains appropriate for achieving those objectives. At this stage, evidence suggests that the legislation is working as intended and fast food outlets are demonstrating high levels of labelling compliance. Evaluation of the initiative is ongoing.

The review report recommends that the Fast Choices legislation be retained in its current form and that no amendments are needed at this time to improve compliance. It also recommends that any decision to extend the requirements to include fat and salt are deferred to allow time for the initiative to take effect, to gather further evidence on the impacts of the initiative and to learn from a number of national programs currently underway. Finally, the report recommends that evaluation work on the initiative and associated consumer education, activities integral to the success of the program, continue to receive funding and support.

I commend the report to you.



Katrina Hodgkinson MP
Minister for Primary Industries

Acknowledgements

The NSW Food Authority (the Authority) would like to thank members of its Fast Choices Reference Group and NSW Ministry of Health for their assistance and input in preparing this document and for their input throughout the policy development and implementation process.

Members of the Fast Choices Reference Group included representatives from industry, community and government stakeholders. As follows:

- Australian Food and Grocery Council
- Australian National Retailers Association
- Bakers Delight Holdings Ltd
- Boost Juice
- Domino's Pizza Enterprises Ltd
- Gloria Jeans Coffees International
- Retail Food Group Ltd
- Subway
- Choice
- Boden Institute of Obesity, Nutrition, Exercise & Eating Disorders
- George Institute of Global Health
- National Heart Foundation (NSW)
- Department of Premier's and Cabinet
- NSW Ministry of Health
- NSW Food Authority (Chair)

Executive Summary

The *Food Act 2003* Division 4 and associated regulations (the Fast Choices legislation) were introduced in NSW on 1 February 2011 with a twelve month implementation period. One year after the legislation takes effect, the Minister of Primary Industries (the Minister) is required to present a report to Parliament on the review of the nutrition information labelling requirements (Fast Choices) in February 2013.

As set out in Division 4 of the *NSW Food Act 2003*, the review must determine whether the Fast Choices policy objectives remain valid, whether the legislation remains appropriate and whether or not the requirements should be extended to include additional nutrition information such as fat and salt.

The NSW Food Authority (the Authority) was responsible for undertaking the review, including consulting with key stakeholders on the findings and preparing the report.

This report fulfils the Ministers obligations in relation to the Fast Choices legislation.

In summary, the policy objectives of the Fast Choices legislation include:

- the creation of a standardised nutrition information (energy labelling) system to prevent confusion and promote consistency across fast food chains in NSW
- to provide consumers with clear consistent nutrition (energy) information of food sold at fast food outlets with appropriate forms of education so that consumers are better informed and are encouraged to make healthier choices, ultimately aiming to reduce the adverse health outcomes relating to overconsumption of fast foods and
- to support the establishment of health protection principles (via the consumer education campaign) that work to minimise and prevent overweight, obesity and chronic disease in NSW consumers.

Government and community interest in the disclosure of nutrition (energy) information at point of sale of fast food had been growing for some time before the introduction of the Fast Choices legislation in 2011. In 2009, over half (52.5%) of the adults in NSW were either overweight or obese¹. The social and economic costs of obesity alone (excluding overweight) were estimated to be \$19 billion in NSW in 2008². There was also increased concern by government, public health and consumer advocacy groups about the increasing frequency with which Australians consume fast food, including its large portion sizes and high energy content³. The Fast Choices legislation is one of a number of measures now identified by Government in their NSW2021 state plan⁴ to help promote and enable healthier food choices in the NSW community.

¹ NSW Dept. Health (2010) NSW Population Health Survey Available at:

http://www.health.nsw.gov.au/resources/publichealth/surveys/hsa_09summary.pdf. Accessed on: 7 Aug 2012

² Access Economics Pty Ltd (2008). The growing cost of obesity. Report commissioned by Diabetes Australia. Available at:

<http://www.diabetesaustralia.com.au/PageFiles/7830/FULLREPORTGrowingCostOfObesity2008.pdf>. Accessed on: 22 Aug 2012

³ National Heart Foundation of Australia, (2010). *The need for nutrition labelling on menus*. Available at:

<http://www.heartfoundation.org.au/SiteCollectionDocuments/Review-nutrition-labelling-on-menus.pdf>. Accessed on: 8 Aug 2012

⁴ NSW Government (2011) *NSW2021 A Plan to make NSW Number One*. Available at: www.2021.NSW.GOV.AU. Accessed on: 16 Aug 2012

Since August 2010, the Authority has undertaken a range of activities and initiated a number of projects that supported the policy development and implementation processes for the Fast Choices initiative. These included:

- seeking input from community, public health organisations, industry and government via the establishment of general and specialist advisory reference groups during the policy development phase
- providing implementation assistance directly to fast food chains
- developing a set of agreed consumer messages for use by businesses in their in-store marketing materials
- developing industry assistance materials (*Fast Choices User Guide, 2011*)
- commissioning a consumer education campaign that targets the heaviest consumers of fast and snack foods (18-24 year olds)
- initiating consumer evaluation studies before and after the Fast Choices legislation commenced
- conducting compliance checks of labelling at outlets (eg menu-boards, posters, displays) and in online and takeaway menus
- collecting food samples for laboratory analysis of energy content and
- driving the national process for developing nationally consistent requirements for the provision of nutrition information at point of sale of food from chain, "fast food outlets"

At this stage, there is no evidence to suggest that amendments to the labelling requirements are warranted. The legislation is working as intended and fast food outlets are demonstrating high levels of labelling compliance. The sustained implementation effort by the Authority (working with the relevant businesses) contributed to these high levels of labelling compliance at affected fast food outlets.

Evaluating the Fast Choices initiative is a work-in-progress. The initiative is still in the implementation phase and evaluation work is ongoing. At this stage, evaluation findings provide a good point of reference against which to compare the impact of the requirements in the future. Early findings are indicating a positive shift in consumer awareness and knowledge of energy as a nutrition concept.

The Review of Fast Food Labelling requirements (Fast Choices) has therefore found that the legislation's policy objectives remain valid and that, at this time, the legislation in its current form remains appropriate for achieving those objectives.

The review also found that the requirements should not be extended to require the display of additional information relating to fat and salt until Fast Choices has been fully implemented in NSW. Reasons for not extending the initiative included the fact that the evidence base is immature. A second round of evaluation studies are yet to be completed and from an international perspective, similar initiatives requiring the display of salt are lacking. The Authority also has genuine concerns about the feasibility and utility of extended display requirements. Menu boards are of a limited size and there is a possibility that addition of further values to what is already a densely populated area may confuse consumers. Additional information also requires a different message and this may further complicate matters. Generally, there is concern that extending display requirements at this stage may negate early gains observed in consumer understanding and awareness of the displayed energy content. Finally, the review found that it would be premature to extend the requirements to include fat and salt until national initiatives such as the front of pack labelling project and the Food and

Health Dialogue's salt reduction strategy have generated an agreed, nationally consistent approach.

For these key reasons, the following recommendations are made:

Recommendation 1:

That the Fast Choices labelling requirements be retained and that no amendments be made at this time.

Recommendation 2:

That evaluation work on the initiative (currently underway) and its contribution to achieving broader population health outcomes receive ongoing investment and support.

Recommendation 3:

That continued investment and support be given to complementary activities integral to the success of the Fast Choices initiative including:

- ongoing consumer education specific to the legislation
- aligning the ongoing consumer education to broader nutrition and health promotion policy and programs at local, state and national levels

Recommendation 4:

That NSW continues to work with other jurisdictions to encourage nationally consistent adoption of the requirements and development of any complementary activities.

Recommendation 5:

That consideration of any extension to the Fast Choices requirements to include fat and salt be deferred until the initiative has been fully implemented in NSW allowing time:

- for the community to develop an understanding of the information and respond accordingly
- to gather evidence both in NSW and in other jurisdictions on the impacts of the initiative and
- to learn from related national initiatives, such as the front of pack labelling project and the Food and Health Dialogue's salt reduction strategy

Recommendation 6:

That any extension to the Fast Choices requirements to include fat and salt, as a matter of preference, be undertaken as part of the national food regulatory system given the development of the national framework in the past two years.

Purpose of the review

In accordance with Division 4 *Food Act 2003* (relating to the display of nutrition information for fast food), the Minister for Primary Industries (the Minister), is required to undertake a review of the legislation. The review report must be tabled in each House of Parliament by 1 February 2013.

The Review must determine whether the:

- policy objectives for the Fast Food Labelling requirements (Fast Choices) remain valid ie remain consistent with current government priorities
- Fast Choices legislation remains appropriate for securing those objectives and
- terms of the legislation should be extended to include labelling requirements for fat and salt.

In addition, this review also provides reflections and insight into the legislation implementation process and a description of the review methodology.

Consistency of policy objectives with government priorities

Government priorities	are expressed in	Policy objectives	are achieved through	Legislation
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Objectives

The policy objectives of Division 4 of the Food Act 2003 and associated Regulations⁵ are to:

1. create a standardised nutrition information system for food sold at standard food outlets⁶ in NSW to prevent confusion and promote consistency across fast food chains in NSW
2. provide consumers in NSW with clear and consistent nutrition (energy) labelling information of food sold at fast food outlets so that consumers are better informed to make healthy food choices and are more confident in the choices that are they making
3. contribute to NSW 2021⁴ objectives in reducing adverse health outcomes relating to the over consumption of fast foods by providing consumers in NSW with energy labelling information so that consumers are encouraged to make healthier food choices over time
4. support the establishment of health protection principles that work to help minimise and prevent overweight, obesity and chronic disease in NSW consumers by providing appropriate forms of consumer education in support of the fast food labelling initiative
5. implement fast food labelling requirements in NSW that address a perceived regulatory gap when compared to the labelling requirements of packaged food where energy content (and other nutrition information) must be displayed and
6. implement a standardised, information system in NSW⁷ that is scalable to a nationally consistent approach (should this become desirable) which can be easily rolled out by national companies

Government priorities

A key priority of government is to keep people healthy, and an important aspect of addressing that priority is to reduce the rate of overweight and obesity. Data about health-related behaviour and the increasing incidence of obesity related chronic diseases has motivated government action.

At the time the Fast Choices initiative was developed, just over half (52.5%) of adults in NSW (16 years and over) were overweight or obese. This is a significant increase from 41.8% in 1997^{1,8}.

In addition, obesity and associated chronic disease posed a huge financial burden for government and individuals. Access Economics estimated the national cost of obesity (excluding

⁵ As distilled from the Hansard (NSW, Parliamentary Debates, Legislative Council. Second Reading Speech 'Food Amendment Bill 2010', 23 November 2010. The Hon. Michael Veitch on behalf of the Hon. Tony Kelly) and outlined in the NSW Food Authority, (2010), *Better Regulation Statement. Provision*

10. http://www.foodauthority.nsw.gov.au/Documents/industry_pdf/BRS-provision-of-nutrition-information.pdf.

⁶ For ease of reading, a 'standard food outlet' is referred to as a 'fast food outlet' for the remainder of the report. It is defined by legislation as a 'premises at which standard pre-packaged food items are sold in standard sizes and portions' (NSW Food Act (2003) Clauses 106L – 106M).

⁷ Requirements apply to food businesses that sell fast food at 20 or more locations in NSW or at 50 or more locations in Australia

⁸ At the time of drafting, the most recent available information was the 2009 study, now superseded by NSW Health (2012) *Health Statistics Report*. Available at: www.healthstats.doh.health.nsw.gov.au accessed on: 3 Sept 2012

overweight) in 2008 at over \$8 billion. The net cost of lost wellbeing added an additional \$50 billion, bringing the total cost of obesity in Australia in 2008 to over \$58 billion annually. The NSW component of the total obesity cost was estimated at \$19 billion².

The NSW Government acknowledged that reducing rates of overweight and obesity would require a long term commitment to social change, through multiple strategies, by all tiers of government, a broad range of government agencies, the private and not for profit sectors and the NSW community.

The Fast Choices legislation was considered justified because:

- a) high volume of food purchases are made at fast food outlets, and
- b) of the potential to provide public health information at point of sale to a targeted audience.

BIS Shrapnel (2009) estimated that 15% of the money spent by consumers on food was spent on fast food. In the years preceding the Fast Choices policy this proportion had been relatively stable, despite increasing public interest in health and fitness generally⁹.

Providing nutrition information on menus in the fast food environment was further supported by statistics showing that foods eaten away from home tend to contain more kilojoules or calories per serve and to be of larger portion size than meals prepared at home¹⁰. Studies show frequent fast food consumption is associated with weight gain over time. These same studies also show that the vast majority of consumers considerably underestimated the energy, fat, saturated fat and salt content of unhealthy foods¹⁰. This lack of understanding of the energy content in fast foods demonstrated a need for clear, simple information to support and enable consumers to make healthy choices. With this in mind, the Authority provided nutrition education for consumers as part of implementing the Fast Choices initiative.

⁹ ABS Statistics 1999 and 2003-4 census results indicated that Australian households spent approximately 30% of their weekly food budget on 'meals out' (incorporating fast food outlets and restaurants)

¹⁰ Rosenheck, R. (2008). *Fast food consumption and increased caloric intake: a systematic review gain and obesity risk*, Obesity Review 2008:9 pp. 535-547.

Effectiveness of securing objectives through legislation

Legislation overview

The *Food Act 2003* Division 4 and associated regulations (the Fast Choices legislation) were introduced in NSW on 1 February 2011 with a twelve-month implementation period. The Fast Choices legislation requires larger fast food and snack food chains to display nutrition (energy) information at the point of sale. A copy of the legislation is at Appendix 1 (p. 37).

The Fast Choices requirements are designed to improve consumer knowledge and understanding of the energy content of “fast food” products, encouraging consumers to make healthier food choices within the quick service out-of-home setting.

Legislation applies to fast food outlets selling standard food items

The requirements apply to ‘fast food outlets’, ie ones that sell ‘standard food items’. Standard food items are defined as being:

- ready-to-eat foods (not pre-packaged),
- sold in single or multiple serves that are standardised for portion size and content, and
- shown on a menu (printed or electronic) or displayed with a price or label

A fast food retail outlet must comply with these new laws if they have 20 or more business locations in NSW (or 50 or more locations nationally).

Examples of typical fast food outlets include:

- Quick service restaurants
- Pizza chains
- Coffee chains
- Bakery chains
- Ice-cream chains
- Doughnut chains
- Beverage chains
- Salad chains
- Supermarket chains (supermarkets have until 1 February 2013 to comply).

Products sold in supermarkets that are affected by the new labelling requirements include:

- Hot chickens
- Deli salads
- Hot deli meals
- Bread/bakery items loose packed in store (e.g. cheese and bacon rolls, custard tarts, doughnuts, whole cakes)

Information that needs to be displayed

Standard food outlets must display the average energy content (expressed in kilojoules) of each standard food item as well as the reference statement 'The average adult daily energy intake is 8700 kJ'. To assist businesses comply with the law, details of the display requirements were outlined in the Authority's *Fast Choices User Guide*¹¹. Appendix 2 (p.42) shows example menu boards as required by the Fast Choices legislation.

Fast food outlets that trial new product concepts at no more than five stores for no more than sixty consecutive days are not required to display the nutrition information for these items.

Voluntary display

Standard food outlets that do not need to comply with these new laws may choose to voluntarily display this nutrition information. However, if they do so, the information must be displayed in accordance with the mandatory requirements.

Compliance with the legislation

The initial onsite checks of menu boards, drive-through facilities, display cabinets (including tags/labels) and promotional materials have shown high levels of industry compliance with the fast food labelling legislation. The Authority's extensive one-on-one consultation with food chains' "head office" during the implementation period was a direct contributor to this outcome.

Twelve months after the legislation took effect, the Authority commenced an extensive compliance program to ensure businesses were displaying nutrition information in a clear and consistent manner in accordance with the legislation. At the initial compliance check, the Authority verified that 35 out of the 39 identified fast food chains had implemented menu boards, tags/labels and reference statements in accordance with the legislation. Three of the four chains quickly responded to the Authority's requests for compliance. Consequently, the Authority was required to take enforcement action on only one chain. This chain has since implemented the requirements.

Generally, the Authority identified minor compliance issues during the initial onsite checks. It continued working one-on-one with chains, when requested, until full compliance with the legislation was achieved. Subsequent onsite checks to different outlets of the same fast food chain found increased compliance rates, demonstrating the success of this approach.

¹¹ NSW Food Authority, (2011). *Fast Choices User Guide*. Available at: http://www.foodauthority.nsw.gov.au/Documents/industry_pdf/fastchoices_user_guide.pdf. Accessed on: 6 Aug 2012.

Objectives are being secured

Objective 1:

Create a standardised nutrition information system for food sold at standard food outlets in NSW to prevent confusion and promote consistency across fast food chains in NSW

The requirements to display standardised nutrition information primarily specify the type, manner and location of information to be displayed (see Appendix 1, p.37). The required information is being provided in a uniform manner within those fast food chains that are subject to the legislation.

However, due to differences in corporate approaches to menus, uniformity of the nutrition information display varies across but not within chains. This was anticipated as the *Food Regulation* existing corporate approaches to menus. It is expected that regular consumers will become aware of the location of the nutrition information in the food outlets they visit. Variation in the display of information across food chains does not compromise a "consistent, state-wide system" as the information itself is consistent. The objective information is uniform across all the food chains and the variation is a matter of creative design.

A standardised nutrition information system across fast food chains in NSW remains a valid policy objective. Creating standardised nutrition information systems for foods in various contexts remains a priority for both state and commonwealth governments. This was a significant focus of the recommendations in *Labelling* of food labelling law and policy) and the resulting government response¹³. The availability of clear, concise and understandable labelling information is a core element of achieving better population health outcomes in the food context¹⁴.

As a result of this work at the national level, a key project is currently developing a single, interpretive front of pack labelling system. The aim is to provide clear, consistent, standardised information to enable consumers to make better informed decisions. The interaction between the Fast Choices initiative and the national front-of-pack labelling work will need to be monitored to ensure consumer health and nutrition messages are aligned.

¹² Blewett, N., Goddard, N., Pettigrew, S., Reynolds, C. and Yeatman, H. (2011). *Labelling Logic: Review Policy*. Commonwealth of Australia. Available at: [http://www.foodlabellingreview.gov.au/internet/foodlabelling/publishing.nsf/content/48c0548d80e715bcca257825001e5dc0/\\$file/labelling%20logic_2011.pdf](http://www.foodlabellingreview.gov.au/internet/foodlabelling/publishing.nsf/content/48c0548d80e715bcca257825001e5dc0/$file/labelling%20logic_2011.pdf). Accessed on: 15 August 2012

¹³ Legislative and Governance Forum on Food Regulation (2011). *Response to the Recommendations of "Labelling Logic: Review Food Labelling Law and Policy (2011)"*. Available at: <http://www.foodlabellingreview.gov.au/internet/foodlabelling/publishing.nsf/content/home> Accessed on: 15 August 2012

¹⁴ Thirwell, T. (2010). *The need for nutrition labeling on menus when eating*. Healthy Food Forum Meeting, Sydney, NSW.

Objective 2:

Provide consumers in NSW with clear and consistent nutrition (energy) labelling information of food sold at fast food outlets so that consumers are better informed to make healthy food choices and are more confident in the choices that they are making

Implementing fast food labelling requirements at point of sale provides consumers with 'information, increased awareness and understanding of energy to make healthier food choices'¹⁵. Clear, consistent and simple messages combined with supporting state and commonwealth government education initiatives is a good way to raise the knowledge levels of consumers in NSW whilst placing a minimal impost on the fast food industry.

Preliminary results from the consumer education evaluation indicate that consumers are becoming better informed and more able to make healthy food choices. Providing this nutrition (energy) information remains a valid policy objective.

Consumer awareness is improving

At the time of writing this report, results from consumer surveys conducted at outlets indicate a significant improvement in the number of people noticing nutrition labelling at outlets, increasing by 25% post-implementation. Of those noticing the information, the number of people identifying the information as being on the menu board increased significantly: 23% (or 3.5% of all surveyed¹⁶) before implementation to 82% (or 32.6% of all surveyed¹⁷) six months after implementation. Also, the number of people recalling the information as being about kilojoules increased significantly: 28% before implementation to 80% six months after implementation, which corresponds to 4.2% and 31.8% of all surveyed respectively.

Results from the online survey are also showing improvements in people noticing and reading the nutrition information at outlets, although recall rates are less. The time between visiting the outlet and responding to the survey could contribute to these lower recall rates. Repeated exposure to nutrition menu labelling will likely result in increased recall rates over time.

Preliminary results for the consumer survey also indicates consumers have an increased awareness of average daily energy intake levels (e.g. 8700 kJ) increasing by 25% six months post implementation. The research is also showing that consumers are better equipped to understand the energy content of their purchases at outlets. The percentage of people estimating the kilojoule value of their meal within 10% of the actual value increased from 6% before implementation to 13% after implementation. While it was not expected that this objective would be fully met in this short time period, early indications are that consumers' knowledge is trending in the right direction. Both of these findings are significant indicators of increasing public health and nutrition awareness resulting from the Fast Choice initiative. This increase in community awareness may apply beyond the fast food setting to in-home and

¹⁵ NSW Food Authority (2011). *Evaluation framework for the Fast Choices*  www.foodauthority.nsw.gov.au. Accessed on: 16 August 2012.

¹⁶ Wave 1: n=815

¹⁷ Wave 2: n=807

packaged foods, especially when taken in context of NSW healthy weight programs, national social marketing and Front of Pack Labelling initiatives.

Objective 3:

Contribute to NSW 2021⁴ objectives in reducing adverse health outcomes relating to the over consumption of fast foods by providing consumers in NSW with energy labelling information so that consumers are encouraged to make healthier food choices over time

The 2021 State Plan⁴ includes targets to reduce the rates of child and adult overweight and obesity in NSW. Overweight, obesity, related preventable chronic diseases and premature death costs an estimated \$19 billion per annum in NSW alone². This cost is borne by the public health system as well as by individuals. Costs related to lost wellbeing and productivity also affect the NSW economy.

The Fast Choices initiative is the primary regulatory mechanism for helping achieve these ambitious targets and works in concert with Health programs and social marketing initiatives. The initiative is designed to increase consumer knowledge and understanding of nutrition information in the fast food context. Measures to enable families to 'make the healthy choice the easy choice' are expected to minimise the prevalence of overweight and obesity related chronic illnesses and premature death. Over the long term, this will contribute to lower health care costs and reduced productivity impacts.

Some evidence that consumers are making healthier food choices

Behaviour change is a complex process for individuals which require an ongoing and a multi-strategic effort in order to detect results at a population level. Evaluation of the Fast Choices initiative and education campaign are still underway.

When surveyed, consumers anticipated that the future impact of the menu labelling changes would increase the likelihood of consumers making different fast food orders, in particular choosing foods with lower energy (kilojoules) content. There is some evidence that consumers intercepted at outlets were purchasing foods with fewer kilojoules. In total, average kilojoules purchased reduced from 3670kJ to 3241 kJ. However, this result should be interpreted with caution as the final evaluation research wave has not yet been undertaken during the equivalent season one year on. Additionally, differences may be attributed to variations in accuracy associated with menu/food energy values (see *Verification values*, p.35).

Fast Choices is well aligned to nutrition policy and health promotion programs at local, state and national levels and there are substantial opportunities for leverage amongst these aligned activities. The NSW Ministry of Health has identified Fast Choices as a foundation strategy and plans to use the "8700kJ a day" interactive web-based tool as a way to integrate and promote consumer access to a range of other healthy promotion weight strategies. In addition, while the present initiative is clearly focussed on consumption of fast and snack foods and drinks, the concept of the average daily intake figure of 8700kJ – or each consumer's own ideal figure – applies to all food and drink consumed. The daily intake figure is important as it sets the context in which to interpret kilojoule values for specific food items. The daily intake figure

displayed on all relevant fast food menus and advertising materials works to address the very low levels of community awareness of total healthy daily energy intake. There are opportunities to implement strategies that extend the impact of this increased general awareness of the daily intake figure beyond consumption of fast and snack food and drink.

Objective 4:

Support the establishment of health protection principles that work to help minimise and prevent overweight, obesity and chronic disease in NSW consumers by providing appropriate forms of consumer education in support of the fast food labelling initiative

The Fast Choices initiative is designed to increase consumer knowledge and understanding of nutrition information in the fast food context. This knowledge is expected to influence food selection choices and so contribute to a long-term reduction in overweight and obesity and related chronic disease. Raising consumer awareness and understanding of the nutrition content of fast and snack food is at the core of the education campaign and so the objective remains valid.

Academic evidence shows that a multi-faceted approach is required to address overweight and obesity. Providing nutrition information about fast food products at point of sale is a key strategy to encourage healthier food choices and is supported by a growing evidence base. The broad focus on energy-dense, nutrient-poor food products, rather than a specific focus on an industry segment or sale channel, is anticipated to deliver nutrition information about fast food items to the widest audience. The legislation requires all retailers selling 'fast food' to disclose nutritional information, both traditional 'fast food' retailers and others, such as supermarkets. This breadth of information sources increases the capacity for consumers to understand and use nutrition information in a variety of contexts including those not directly regulated.

Information and education working together

Before the implementation of the Fast Choices initiative, access to nutrition information for a category of foods which are frequently energy dense was not readily available.

The consumer education campaign aims to build the capacity of the community to manage its energy intake through increased understanding of nutrition, increasing empowerment over food choice. Community and industry partners have helped shape and distribute the campaign messages for the consumer education project. Messages have been kept clear, consistent with other NSW and national nutrition messages and consistent with information now displayed on menu boards in NSW and some other jurisdictions.

The initiative is being formally evaluated with evidence collected at key points before and during implementation. Early indications are that the education campaign has contributed to increased understanding of the energy values in fast food.

Evaluation of the effect of display on energy content on menu boards and exposure to the consumer education campaign is ongoing. Only results from the April-May 2012 mid-term follow-up research is available to date. (This first round of study was undertaken at a different time of year than the benchmark data and so must be interpreted with caution). The study

gives a first glimpse of potential effects of the initiative three months after the legislation came into effect and two months after the launch of the education campaign.

Understanding total daily energy intake is important as it is the context against which consumers interpret particular energy content values on food menus. Initial results suggest that the effect of implementing the new menu boards and exposure to the education campaign is associated with statistically significant rises in knowledge about the average total daily intake for energy (that is, approximately 8700 kilojoules for an average sized person):

- from 5% to 18% of customers intercepted at standard food outlets
- from 19% to 23% in the education campaign target audience (18-24 yo) surveyed online and
- from 8% to 12% in the general population (surveyed online)

Knowing the energy content of individual food items enables consumers to make informed choices. Preliminary findings from the quantitative research show the Fast Choices initiative is associated with statistically significant rises in consumers' ability to accurately estimate the kilojoule content of fast foods they have just purchased or consumed. The proportion of consumers in the study willing to estimate the kilojoules in their food increased from 25% to 34%. The number of consumers accurately estimating (within 10%) the actual energy content of their food more than doubled (6% to 13%).

It is important to maintain clarity and consistency in the consumer education campaign to consolidate and build on the early improvements in awareness and knowledge.

Objective 5:

Implement fast food labelling requirements in NSW that address a perceived regulatory gap when compared to the labelling requirements of packaged food where energy content (and other nutrition information) must be displayed

Before the introduction of the fast food labelling requirements a regulatory gap existed in the retail sector with respect to "fast food". That is, fast food businesses were not required to display the energy content of standard food items but businesses selling packaged food were required to display this information.

The *Australia* requirements for packaged food for retail sale. These requirements include a nutrition information panel, which must incorporate the energy content of the food per serve, and the statement that "daily intakes are based on an average adult diet of 8700KJ" where percentage daily intake values are displayed.

The Code exempts restaurants and fast food outlets from these provisions, apart from a requirement to declare the presence of allergens, irradiated foods or foods produced using gene technology to the purchaser of the food, on request.

Implementation of the fast food labelling requirements in NSW has addressed this gap, and the policy objective remains valid. It provides a level playing field for affected retail food businesses that sell standard food items, irrespective of the type of food produced and sold, by requiring them to disclose nutrition information at point-of-sale.

Objective 6:

Implement a standardised, information system in NSW that is scalable to a nationally consistent approach (should this become desirable) which can be easily rolled out by national companies

NSW can support fast food businesses that operate on a national scale to comply with NSW and similar or duplicated requirements by taking all possible steps to harmonise with other jurisdictions considering similar interventions. It is expected that this effort will enhance compliance within NSW for those national operators.

Many of the affected fast food chains produce materials such as menu boards and posters from a central location, so the NSW approach will likely generate significant savings to business via simple economy of scale. For this reason the objective remains valid, and NSW will continue to advocate strongly at the national level for consistent inter-jurisdictional regulatory intervention.

Maintaining national consistency in consumer education messages also remains an important objective. Even though promotion of the online consumer education resources have successfully concentrated on people living in NSW, consumer education materials have been made consistent with national messages. Nutrition information was sourced from nationally-referenced material:

- the education approach was careful to be consistent with—and not duplicate—other national education programs such as 'Swap it, Don't stop it' and 'Measure up'
- the education resources were designed to funnel consumers to other relevant State and national programs for more detailed information, such as the NSW website www.healthykids.nsw.gov.au; and as a result, NSW is currently assisting South Australia in developing their approach to consumer education

Costs of the initiative are modest

Estimated Fast Choices national start-up and ongoing costs to industry of \$ 7.3 million was a modest share of total industry revenues for the same period¹⁸. In 2010-2011, the total revenues for the fast food sector¹⁹ were \$16 billion with over one third of all activity in NSW¹⁸.

Overall, the cost of the legislation to industry and government is relatively low given that the estimated cost of overweight and obesity to government in NSW is estimated at \$19 billion² and considering the significant results identified in the quantitative research undertaken six months post-implementation. That is, 25% more people surveyed when exiting a fast food outlet reported noticing nutrition labelling and daily energy intake information at fast food chain.

Industry costs

The Authority engaged the services of AgEconPlus Pty Ltd to undertake an independent assessment of the start-up and on-going costs of the legislation on industry as part of this review. All 39 fast food chains affected by the legislation, plus the one chain that voluntarily

¹⁸ AgEconPlus (2012). *Industry Costs associated with*

¹⁹ Excluding coffee chains

chose to comply, were contacted and asked to participate by completing a simple survey. From these 40 fast food chains, 11 chains participated in this assessment and provided complete survey responses. These chains represented 1,405 NSW stores and 3,884 stores nationally – a NSW store based survey response rate of 49%. Across Australia, the total industry start-up cost was estimated at \$5.4 million and the total industry on-going cost was estimated at \$1.9 million per annum thereafter. Note this is the national cost as participating businesses were unable to partition out NSW specific costs from national costs²⁰. It is also not clear what proportion of these costs were borne by head office of the affected chain, the franchisee or both. (All of the cost data collected by AgEconPlus Pty Ltd was treated confidentially and was provided to the Authority as de-identified information.)

Government costs

At the time of writing this report, the total cost of the legislation to the NSW government was estimated at \$2.329m. This cost was based on implementation and compliance activities associated with the legislation during February 2011 to September 2011. It did not include the costs associated with the policy development process or the time senior management staff dedicated to the project as part of their normal duties. Approximately \$1.67m of this cost was for outsourced work in the areas of nutrition education, evaluation and food testing, whilst the remainder of the cost was for staff time. More detail on the implementation and compliance activities and their associated costs are outlined in the table at Appendix 3 (p. 43). Evaluation and compliance activities are on-going for fast food chains and yet to commence for supermarkets, therefore this table only includes estimated cost data from February 2011–September 2012.

National response to the legislation

In response to the NSW initiative, the former Australia and New Zealand Food Regulation Ministerial Council (ANZFRMC) (now convening as the Forum of Food Regulation) agreed that a national approach should be developed to ensure consistency with State-based approaches to the provision of Point-of-Sale (POS) nutrition information. In addition, ANZFRMC considered a request from the Chair of the Australian Health Ministers' Advisory Council (AHMAC) to assist an initiative to improve the nutrition of Australians by reducing the intake of energy, saturated fat, sugar and salt from food purchased from "chain fast food service outlets".

By mid 2011 a national working group had developed a set of nationally agreed Principles to assist jurisdictions should they decide to introduce POS nutrition information measures. In 2012, these Principles were endorsed by the Forum of Food Regulation and a framework for a nationally consistent approach was established. These Principles aligned with the legislation as passed in NSW. The national working group is now focusing on evaluating POS nutrition information.

²⁰ Greater than 80% of businesses responding to the survey provided national costs, stating that it was more cost effective to produce and communicate one set of collateral than different menus operating in different states.

This work was undertaken largely because a number of jurisdictions had either commenced work in relation to developing a POS nutrition information display scheme or announced an intention to do so, namely:

- NSW introduced POS legislation in February 2011, with offence provisions commencing in February 2012.
- ACT passed POS legislation in August 2011, which will commence in January 2013 (with offence provisions to take effect at the same time).
- SA amended its food regulations in February 2012 to introduce POS requirements by February 2013.
- The Tasmanian Health Minister announced in June 2010 an intention to examine adopting laws from interstate requiring fast-food chains to show kilojoule counts.
- The former Victorian Premier announced in June 2009 an intention to regulate the provision of nutrition information in fast food outlets.

Work on this issue has not progressed in both Tasmania and Victoria but their actions have been included here for context.

An implementation working group was also established in response to a 6 May 2011 ANZFRMC decision to continue work on a national approach including collaboration on implementation. This working group met on several occasions and has developed national templates for a user guide and key consumer messages to be used by all jurisdictions if they proceed to regulating the provision of POS information.

Expanding the terms of the legislation

Fat and salt content are of concern

The salt and fat content of “fast food” remains of concern as these particular nutrients are implicated in a number of chronic disease and obesity related illnesses²¹. For this reason alone, it remains valid to consider extending fast food labelling requirements to include fat and salt.

The work (development, implementation, education and evaluation) of fast food labelling requirements is ongoing, both within NSW and at the national level. The Authority has therefore considered the question of extending fast food labelling requirements to specific nutrients (such as fat and salt) in the context of a complex national food regulatory system and immature evidence. As more data becomes available and the evidence base is better informed the Authority will be in a position to be able to reassess the scope of the legislation.

Evaluate before introducing change

It is the Authority’s practice to evaluate regulatory interventions, particularly where extension is contemplated (refer to *A sound evaluation* of this initiative). There is consensus at the national level that initiatives of this nature should be evaluated before expanding the requirements or contemplating relocating the requirements to

²¹ Mann, J. & Truswell, A.S. (2007). *Essentials of human nutrition* (pp.50-51). Oxford: Oxford University Press.

within the Food Standards Code²² or both. Relocating the requirements within the Food Standards Code could only occur if the majority of jurisdictions agreed.

The effectiveness of the Fast Choices initiative as a whole – legislation; education and industry awareness activities – is yet to be fully measured and analysed. This is equally true of the work being done in jurisdictions implementing similar requirements such as the ACT and SA. For this reason the Authority is of the view that it would be premature to make a decision about the expansion to include fat and salt in fast food labelling requirements at this time.

If at a later stage when the data is available and it becomes apparent that fat and salt content should be disclosed at the point of sale, the Authority is of the view that significant industry and consumer consultation would be required. The Authority has genuine concerns about the feasibility and utility of extended display requirements. Menu boards are of a limited size and there is a possibility that addition of further values to what is already a densely populated area may confuse consumers. Additional information also requires a different message, further complicating matters. Generally, there is concern that extending display requirements at this stage may negate early gains observed in consumer understanding and awareness of the displayed energy content.

Learn from national initiatives before expanding on Fast Choices

Since 2011 and the introduction of Fast Choices in NSW, Minister's responsible for food regulation (the former Australia and New Zealand Food Regulation Ministerial Council) agreed to a process for developing a national approach on point-of-sale nutrition information at fast food outlets. By 2012, national principles had been developed and were endorsed by the Forum on Food Regulation (FoFR), establishing a formal framework for a nationally consistent approach.

It is acknowledged, that coordinated action is required from government, public health advocates and industry to further reduce salt in our food and improve health. The academic literature shows that achievements can and have been made from reformulation (where most programs are voluntary). The Commonwealth Government has such a model called the Food and Health Dialogue. Major food manufacturers have committed to salt reductions for bread, ready-to-eat breakfast cereal, simmer sauce, processed meat, soup and savoury pies. Some of these reductions will reach the market place by the end of 2013 and others by the end of 2014. NSW will take this opportunity to use the evidence base to influence policy, stimulate adoption and monitor outcomes.

Furthermore, in August 2012, the Commonwealth Government, through the Food and Health Dialogue commenced work on a strategy in the quick service industry to reduce salt in fast food. They hope to achieve this through setting targets around reformulation. The Food and

²² *Principles for Introducing Point-of-Sale Nutrition Information at Standard Food Outlets*. Endorsed by the Australia and New Zealand Food Regulation Ministerial Council in October 2011 Accessed at: <http://www.health.gov.au/internet/main/publishing.nsf/Content/foodsecretariat-food-safety-pointofsale>. Accessed on: 25 Aug 2012

Health Dialogue have indicated that most major chains are receptive to the strategy noting that many are already looking to improve the nutrition profiles of their foods²³.

For these reasons, it is recommended that the question of expansion of the requirements to include fat and salt be deferred. NSW can consider the progress of this national level work when the full evaluation of the fast food labelling is complete (including evaluation results from ACT and SA) and make further necessary recommendations at that stage.

²³ Department of Health and Ageing, 2012. Media Release available at <http://www.health.gov.au/internet/main/publishing.nsf/Content/mr-yr12-dept-dept240812.htm>.

Recommendations

The acceptance of these recommendations and any action to be taken is a matter for Government to decide. Key stakeholders will be consulted on these recommendations should the Government decide that they should be implemented.

Recommendation 1:

That the Fast Choices labelling requirements be retained and that no amendments be made at this time.

Recommendation 2:

That evaluation work on the initiative (currently underway) and its contribution to achieving broader population health outcomes receive ongoing investment and support.

Recommendation 3:

That continued investment and support be given to complementary activities integral to the success of the Fast Choices initiative including:

- ongoing consumer education specific to the legislation
- aligning the ongoing consumer education to broader nutrition and health promotion policy and programs at local, state and national levels

Recommendation 4:

That NSW continues to work with other jurisdictions to encourage nationally consistent adoption of the requirements and development of any complementary activities.

Recommendation 5:

That consideration of any extension to the Fast Choices requirements to include fat and salt be deferred until the initiative has been fully implemented in NSW allowing time:

- for the community to develop an understanding of the information and respond accordingly
- to gather evidence both in NSW and in other jurisdictions on the impacts of the initiative and
- to learn from related national initiatives, such as the front of pack labelling project and the Food and Health Dialogue's salt reduction strategy

Recommendation 6:

That any extension to the Fast Choices requirements to include fat and salt, as a matter of preference, be undertaken as part of the national food regulatory system given the development of the national framework in the past two years.

Insights and learning

The initiative is having a positive impact

A standardised nutrition information system for food sold at fast food chains in NSW has been established. The Authority has identified high levels of compliance by affected fast food chains confirming that the legislation is working as intended and is therefore acceptable in its current form. Compliance monitoring activities did not identify any issues relating to label legibility suggesting that no changes to the legislative requirements are needed in relation to stroke and font intensity. However, implementation and compliance issues will continue to be monitored as a matter of routine (see Recommendation 1).

Evaluating the impacts of the Fast Choices initiative is a work-in-progress and an integral step in the policy development and improvement cycle. At the time of writing this report, the initiative is not yet fully implemented and ongoing evaluation work is incomplete. However, initial evaluation findings are promising and suggest that consumers are becoming better informed in making healthier food choices and are more confident in the choices that they are making. Early evaluation results are indicating a positive shift in consumer awareness and knowledge of energy as a concept.

Continued evaluation of the initiative and its achievements is imperative in ensuring the Fast Choices legislative requirements remain efficient, effective and appropriate. However, in future, the initiative also needs evaluating within the context of broader health promotion strategies. It is important for government to be able to assess how the Fast Choices initiative contributes more broadly to achieving the NSW 2021 objectives in reducing overweight, obesity and related risk factors in the general population. Supporting and investing in the evaluation of the impacts of the initiative and other projects will help determine whether population level health improvements are being achieved (see Recommendation 2).

Continued consumer education is integral to success

Consumer education is complementary to regulation but integral to the success of the Fast Choices initiative. The Fast Choices initiative is designed to increase consumer knowledge and understanding of nutrition information in the fast food context resulting in a long-term reduction in overweight, obesity and related adverse health issues. Raising awareness and understanding of the nutrition content of fast and snack food in a group of high level consumers (18-24 year olds) is at the core of the current education campaign. Early findings suggest that exposure to the consumer education campaign (and the effect of labelling requirements) is associated with statistically significant increases in knowledge on energy intake. Continued consumer education is needed to deliver long-term sustained behaviour change and detectable results at a population level.

Future consumer education campaigns should be aimed at ensuring fast food consumers understand the menu board displays (and associated marketing materials) and are able to apply the total daily intake reference figure to their situation.

The Fast Choices initiative is an integral component of state-wide health promotion programs targeting a reduction in overweight and obesity rates in NSW (NSW 2021 State Plan).

Therefore, a broader, more diverse and multilayered approach to food and nutrition education for all consumers is also needed in order to improve consumer health outcomes at the population level (see Recommendation 3).

Targeted education and advertising campaigns are effective

There is generally low awareness of energy in food and drink and total daily energy intake and so any menu board initiative should be appropriately supported with consumer education. This was consistently emphasised by stakeholders from the Fast Food Forum in August 2010 onwards. Evidence from other countries also suggests that fast and snack food consumers need to be engaged with the new information on menu boards to avoid a lack of noticing and reduced impact of the initiative²⁴.

To start providing this education, the Authority published a basic information website in February 2011 to coincide with commencement of the Fast Choices legislation. Standard consumer messages on energy content in food and drink were developed, tested in focus groups and circulated to industry and community stakeholders then incorporated into the initial website. Focus groups provided initial insights into general consumer understanding and engagement with concepts of energy in food.

In the context of the high rates of overweight and obesity of people in NSW, the length of time normally required to achieve actual behaviour change and the value of expenditure on promotional activity by the fast food industry, the education campaign settled on a tight audience focus. It also maximised its potential reach using an inverse pyramid of a) modest paid advertising, b) developing owned resources and c) maximum earned media and community conversations.

In September 2011, the Government made budget allocation for a consumer campaign. An education strategy was developed focussing on the highest frequency consumers of fast and snack foods, but also aimed to have a ripple out to other consumers of fast foods in NSW. If the campaign approach proves successful for the primary target audience, wider population initiatives could be considered to build on any achievements.

Challenges for the campaign included:

- the infrequent use of metric kilojoule terminology in the community and Australian media. 'Calorie' terminology dominates
- very low awareness in the community of total daily energy intake (however described)
- the absence of a single recommended Australian total energy intake because each person's activity level and body characteristics vary
- high levels of attachment to fast food consumption
- a tendency for unhealthy weight consumers to notice but not personalise messages around healthy weight

The challenges were addressed by developing an education campaign that was both informative and enabled consumer choice. It encouraged consumers to notice the energy

²⁴ Foodlogic (2012). (DRAFT) *Nutrition labelling on restaurant menus as a strategy for changing the evidence 2010-2012*. A report prepared for the NSW Food Authority. Unpublished.

(kilojoule) values displayed on menus in standard food outlets and apply what they learned at the point-of-sale.

The advertising was also designed to build consumer awareness of energy in food and drink even without an awareness of Fast Choices labelling. It shows foods as the sum of the energy (kilojoule content) in their ingredients and an average total daily kilojoule intake of 8700 kilojoules a day. The materials also invited consumers to find 'your ideal figure', the total kilojoule intake suitable for each individual. The campaign avoided stigmatising fast and snack foods and included resources for consumers who were ready to go further along the 'healthy choices' journey. It included engagement activities and digital resources for use by consumers to explore, personalise, engage and, ultimately, advocate for the campaign messages by passing on recommendations to others.

The Fast Choices education campaign was launched in March 2012 and an example is attached at Appendix 4 (p. 44). Resources included a comprehensive website (replacing the initial website), interactive calculators for consumers to derive personal daily energy (kilojoules) intakes, a smartphone application ('app'), a Facebook page (8700kJ) for social conversations, a searchable interpretive fast food database, infographics and a short video capturing the 'Big Night In' community engagement event. Paid advertising was placed in shopping centre food court displays, on selected radio outlets, and via online search marketing, Facebook and mobile phone advertising.

The Government has allocated a further \$330,000 to the education campaign for 2012-13 to fund and further evaluate campaign activity. Evaluation of the campaign is ongoing and will continue as a component of the overall Fast Choices initiative.

The Fast Choices initiative encourages industry to provide healthier options

The requirements of the Fast Choices initiative provide an information source for consumers. But more than that, the requirements also work to encourage the fast food industry to formulate healthier products at a faster rate than has been achieved to date. This is consistent with long term objectives to reduce adverse health outcomes relating to the overconsumption of unhealthy foods.

The standardised nutrition labelling system allows consumers to compare the energy content of similar food categories, across different fast food chains. It is thought that this ability will encourage industry to reformulate products to healthier options or to offer healthier products as the default product option.

To date, there is some evidence that industry is reformulating and offering healthier options. There have been reports that some fast food chains have reformulated products to lower energy content of some menu items such as including a low kilojoule soft drink in a standard meal serving. Anecdotal evidence suggests that other chains have taken a different approach and have substituted lower energy products for the standard menu default product. The Authority will continue to monitor fast food chains for evidence of this occurring over time. Industry should be supported in this effort as it allows consumers to lower their energy intake without the need for an individual consumer to make an active choice or have an understanding of kilojoule intake and nutritional needs.

Evidence on menu labelling is emerging

In mid 2012, the Authority engaged a consultant (Foodlogic) to undertake a review of international published literature on the efficacy of nutrition labelling on menu boards. The review gathered and assessed information on the ability of menu labelling to influence the purchase and consumption of lower energy content meal items and the awareness and use of menu labelling. The reviewer identified over 50 published articles on menu labelling, covering different aspects of menu labelling and of differing quality.

Overall, the review found that while there is some evidence to show menu labelling affects purchasing behaviour the effect appears to be limited. Further, there is insufficient evidence to show that menu labelling is affecting consumer's total energy intake. While consumers are aware of the nutrition information on the menu, it appears not to influence behaviour change at this stage. The review highlights the need for more research to provide further evidence, and cautions about drawing too strong a conclusion, either positive or negative, due to the quality of the studies reviewed.

Based on the evidence, further evaluation and review of menu labelling initiatives is required to fully understand their effectiveness and potential impact on public health outcomes. Evaluation currently underway will contribute to the broader evidence base in this regard.

Effectively implementing legislation requires activity and effort

The first formal meeting of key industry, community and government stakeholders on the issue of nutrition (energy) labelling of food sold at fast food outlets was in August 2010. Since then the Authority has undertaken a range of activities and initiated a number of projects that supported the policy development and implementation processes for the Fast Choices initiative. These included:

- seeking input from community, industry and government by establishing general and specialist advisory reference groups during the policy development phase
- providing assistance directly to fast food chains to help implement the requirements
- developing a set of consumer messages for use by businesses in their in store marketing materials e.g. tray mats and brochures. These messages were agreed by stakeholders
- developing industry assistance materials (Fast Choices User Guide, 2011)
- commissioning a consumer education campaign that targets the heaviest consumers of fast and snack foods (18-24 year olds)
- initiating evaluation studies comparing consumer knowledge and behaviour before and after the Fast Choices legislation commenced
- checking compliance with labelling requirements at outlets (eg menu-boards, posters, displays) and in online and takeaway menus
- collecting food samples for laboratory analysis of energy content and
- driving the process to develop consistent requirements across the nation for providing nutrition information at point of sale of food from "chain, fast food outlets"

Effective legislation is the result of sound policy development

All food businesses in NSW that provide food for sale are required to comply with foundation food safety requirements specified within the national Food Standards Code (Food Safety Standards 3.2.2 and 3.2.3). From a regulatory perspective the Authority, in partnership with

local councils, administers and enforces the national *Food Standards Code* (the Code) in NSW. Generally, local councils administer and enforce the Code in fast food outlets.

At the time of policy development, there were no labelling requirements for restaurant food (including fast food) under the Code. However retail outlets did need to supply upon request information on allergenic ingredients or where a particular content claim is made with respect to the food.

In its submission in early 2010 to the national *Review of Food Labelling* (the Blewett Review¹²), the NSW Government advocated requiring large fast food chains to publish point of sale information on the total energy (kilojoules), saturated fats, trans fats and salt content of their products.

In August 2010, the former Government hosted a Fast Food Forum where it consulted with the fast food industry, public health professionals and consumer stakeholders about how best to provide consumers with information to help them make informed choices about the food they eat.

Following the Forum, the Authority formed the Quick Service Restaurant Labelling Reference Group. The group's brief was to advise on:

- a model for providing point-of-sale nutrition information for trial
- consumer education initiatives and research to support the fast food menu labelling, and
- possible actions and lessons from product re-formulation examples that could inform future initiatives in this area.

The Reference Group developed a trial model for implementing point of sale nutrition information in fast food outlets, designed to provide an evidence base for a state-wide or national approach to any potential intervention. (This Reference Group was disbanded with the passage of the legislation and a new, broader, reference group was convened to provide ongoing policy advice to government.)

The nutrition (energy) information disclosure initiative mandated the provision of nutrition (energy) information in fast food outlets⁶. The methodology accepted, after consultation, was to provide information about the kilojoules for each standard menu item accompanied by a reference to daily kilojoule requirements. Accordingly, legislation was developed to impose these requirements on standard food outlets, where the chain operated 20 or more outlets in NSW or 50 or more nationally. In response to industry and public health advice, the NSW government also committed to implementing, supporting, monitoring and enforcing the requirements along with introducing consumer education and evaluation programs. This initiative eventually came to be known as the "Fast Choices" initiative.

Working with industry aids effective implementation

The Fast Choices initiative saw the advent of a new implementation model for the NSW Food Authority. While the obligation to comply with the legislation falls squarely upon the owner/operator of the food businesses, the Authority was conscious of the specific business models operating within the quick service restaurant/standard food outlet environment. In particular, the degree of control over menus, marketing and design exercised by "head office"

meant that successful implementation was likely to depend largely on the corporate management (franchisors) clearly understanding the requirements and appropriately developing their menus to comply. The Authority adopted a multifaceted approach to implementation, including:

- working with the Reference Group to resolve specific policy issues (managed via an issues register process)
- providing interpretation assistance and guidance on menu board compliance to affected food chains (at head office/creative level)
- negotiating with peak bodies to assist implementation and interpret requirements
- establishing a dedicated working group to resolve implementation issues specific to supermarkets
- responding to queries and concerns raised by individual franchise holders
- developing industry assistance materials in the form of a “user guide” to help businesses with common implementation questions

The Authority has so far provided direct advice about methods of compliance to 38 of the 39 affected food chains and one business chain that has voluntarily chosen to comply. Appendix 5 (p. 48) includes the complete list of businesses that were provided with one-on-one implementation assistance from the Authority.

In general, businesses most commonly requested compliance advice on:

- the location and manner of displaying energy information and the reference statement
- displaying energy information for meal deals, portion sizes and category items and
- displaying average energy content using a ‘default’

Review methodology

The review report was prepared by the NSW Food Authority (the Authority) with input from the NSW Ministry of Health and the Authority's Fast Choices Stakeholder Reference Group (the Reference Group).

To obtain input from key industry, community and government stakeholders on the Fast Choices initiative, the Authority established the Reference Group early in the policy development process. A list of Reference Group members is attached at Appendix 6 (p. 49).

In addition to outcomes from the Fast Choices implementation and evaluation processes, the Review was further informed by two recently commissioned reports; an independent assessment of industry costs and an up to date review of the published scientific literature. Relevant findings have been included in the section 'Objectives are being secured'.

A sound evaluation framework

With the passing of the legislation in December 2011, the Authority commenced a process to evaluate the new legislation. The evaluation aimed to provide information on the appropriateness of the new legislation and to support the review requirement of the legislation.

The evaluation was structured based on the Authority's overarching evaluation framework in particular the program logic mapping²⁵. The program logic mapping exercise is designed to facilitate clear thinking about the purpose of the policy underpinning the legislation making evaluating progress toward objectives more precise. The program logic for the evaluation of the Fast Choices legislation is shown in Appendix 7 (p. 50).

There are multiple initiatives outside the Authority's remit contributing towards the policy objectives. The intermediate outcomes of specific relevance to the regulatory requirements are:

1. Businesses understand the regulatory requirement
2. Businesses comply with the regulation
3. Regulatory agencies manage and enforce the regulation
4. NSW Food Authority implements a consumer education program
5. Consumers have information to make healthier choices at fast food and snack food chains
6. Consumers have awareness and increased understanding of energy (particularly kJ values in qualifying outlets) and
7. Consumers purchase fewer kJs from qualifying outlets and/or make different food choices with other meals.

To address the intermediate outcomes, the following data collection strategies were identified:

- type of issues raised by businesses about the regulation and present able to be resolved
- number of on-site inspections and percentage of businesses complying
- the collection of both qualitative and quantitative data to estimate changes in food choice and nutrients purchased

²⁵ NSW Food Authority (2008). Risk Management Framework: Evaluation Framework 2008-2012. Retrieved 23 August 2012 from http://www.foodauthority.nsw.gov.au/Documents/science/risk_management_programs_evaluation_framework_2008.pdf.

- obtaining qualitative and quantitative data from interviews with consumers to assess changes in understanding, use and acceptability of the labelling system over time and
- sample collection for laboratory analysis of kilojoules.

An overview of the evaluation project and proposed data collection strategies was presented and agreed to at the inaugural meeting of the Reference Group on the 16 March 2011.

To collect the information, the Authority has undertaken a variety of activities, some of which have been detailed elsewhere in this document.

Understanding the impact on consumers

To address the qualitative and quantitative data strategies, a consumer research project was initiated. The research project aimed to collect information to address intermediate outcomes 6 and 7. Using a tender process TNS social research was contracted to conduct this research²⁶.

The research project undertaken by TNS social research was designed on 'knowledge-attitude-behaviour' (KAB) models, providing a framework that can be used to monitor the impact of communications on behaviour. Behaviour change is a complex, long-term process. By monitoring the knowledge, attitudes and intentions the impact and efficacy of the communication in the short to medium term can be determine and, to some extent, potential behavioural responses predicted.

The objectives of the research project are to assess whether the introductions of the Fast Choices legislation has changed consumers':

- knowledge and awareness of kilojoules
- beliefs about 'low' and 'high' kilojoule foods
- attitudes and intentions in relation to 'low' and 'high' kilojoule foods and
- food choices in relevant settings (fast food outlets and supermarkets)

The project involved initial qualitative research followed by quantitative research pre and post implementation of menu labelling.

The initial qualitative research aimed to inform the later quantitative research and involved 12 in-depth interviews with a cross-section of the population. They were designed to provide an insight into the attitudes, beliefs and behaviours of consumers about fast food purchase and consumption. The interviews provided background information needed to assess any changes in consumers with the introduction of menu labelling.

The quantitative research used both intercept interviews with consumers at outlets and surveying consumers online. Research was conducted three times over a twelve month period: pre-implementation; immediately after implementation; and six months after implementation.

²⁶ A request for quotation was developed and sent to ten organisations on the NSW Ministry of Health's Preferred Supplier Panel with capabilities in both quantitative and qualitative research. Six proposals were received in response to the request for quotation. A project evaluation committee with representatives from the Authority, NSW Ministry of Health, the George Institute for Global Health and the Boden Institute of Obesity, Nutrition, Exercise and Eating Disorders was established to assess the proposals. The project evaluation committee assessed each proposal against a set of selection criteria and awarded the research project to TNS social research.

For the intercept interviews 800 people at 16 outlets were interviewed on:

- their understanding of kilojoule content of foods
- their purchase decision making process
- perception and attitude to food choices
- awareness of nutrition information at outlet and
- acceptance of menu labelling and future intent

The online survey involved interviewing 500 people to assess their:

- awareness and understanding of kilojoules and nutritional content
- purchase and consumption patterns
- awareness of menu labelling and
- future motivations and intentions

In early 2012, the evaluation project was expanded to include the consumer education campaign. This involved expanding the online survey to gauge exposure and reaction to the different campaign elements in respect to both the campaign target audience and the general population. A baseline survey of the target audience was conducted in February 2012, just prior to the campaign launch but after implementation of menu labelling (Note: due to timing constraints it was not possible to conduct the baseline prior to implementation). The online survey was expanded to include questions relating to the education campaign for the general population (n=500) and the campaign audience (n=200, 18-24 year olds) for both survey periods post implementation.

Monitoring compliance with the legislation

Onsite compliance checks

Twelve months after the legislation took effect, the Authority commenced a project to assess industry's compliance with the requirements. This involved conducting onsite checks of 150 outlets representing 39 fast food chains affected by the legislation and one chain voluntarily displaying energy content (and therefore must comply with the requirements). Representative outlets from Sydney and regional areas were randomly selected for the project.

At the initial onsite check, approximately 35 of the 39 affected fast food chains had implemented the new requirements by displaying energy content and reference statements in-store tags, labels and menu boards. A number of infrequent issues were identified including:

- lack of energy content information on some tags/labels and promotional posters (where required)
- lack of reference statement on some menu boards, display cabinets and promotional posters (where required) and
- occasions where energy content and/or reference statement information was either illegible or was of the incorrect size and/or font

The Authority was required to escalate enforcement action (via warning letter) against one chain when initial communication failed to produce a response. This chain has since implemented the requirements.

Following each compliance check, the Authority informed the business via its head office of the findings in writing. When non-compliances were identified, the Authority requested a written

response from the fast food chain outlining how it would rectify the issue. When requested, the Authority continued to work one-on-one with chains until businesses achieved full compliance with the legislation. Subsequent onsite checks to different outlets of the same chain showed increased compliance rates demonstrating the success of this approach.

The compliance checks identified lower compliance rates for tags/labels and posters compared with the menu boards. This was expected as tag/labels and posters are frequently changed.

Compliance levels also varied between outlets from the same fast food chain. At times some franchised outlets were found to have lower compliance levels compared to those outlets that were owned by the fast food chain.

It is worthwhile noting that a number of national fast food chains including Hungry Jacks, The Coffee Club, Subway, McDonalds, Donut King, Boost Juice, Gloria Jeans Coffees, Ali Baba, Domino's and Wendy's adopted the requirements before penalties came into force in February 2012.

Menu compliance checks

The Authority conducted compliance checks of all available online menus (including web-based and tablet/ smart phone applications) of fast food chains where consumers can place orders. From February to July 2012, the Authority identified that five of the 39 fast food chains subject to the fast food labelling requirements had developed online menus. Overall, the Authority found that online menus were generally compliant, with only a small number of minor issues identified.

The Authority found high levels of compliance for take-away menus from four fast food chains that were required to comply with the requirements. From February to July 2012, take-away menus from three of the four chains were found to be compliant, with one failing to display the reference statement correctly.

Verification of menu board energy values

Clause 16S (3) and (4) of the Food Regulation (2010) requires the average energy content to be calculated in accordance with Standard 1.2.8 of the Australia New Zealand Food Standards Code, and adjusted based on the whole standard food item. A summary of the method for calculating the average energy content and expected variation is provided in Appendix 8 (p. 51).

While variation in nutritional values can be expected, the kilojoules values displayed on menu boards should generally reflect the kilojoules content of the actual food item consumed. To assess difference between menu board values and actual food values, the Authority is testing food sold at fast food outlets. The testing program involves collecting 10% of standard food items from the various standard food outlet chains, noting the kilojoules value on the menu board at the time of sampling and analysing the kilojoule content. Where kilojoule content differs between the menu value and actual value by more than 20%, two additional samples will be collected, each from a different outlet, and analysed. The average of the three analytical results will then be compared with the menu board value. Collecting multiple samples of the same standard food items from different outlets allow us to account for variations in assembling

the items and delaying the resampling allow us to account for potential seasonal variation. Where variation still exceeds 20% the results will be discussed with the relevant standard food outlet chain.

Initial sampling and analysis will be completed by September 2012 with any resampling and analysis occurring in September and October 2012. It is expected that the final results will be available late December 2012 for inclusion in the Fast Choices Evaluation Report in early 2013.

Appendix 1

Fast Choices Legislation²⁷

Food Act 2003 No 43

Division 4 Requirements relating to display of nutritional information for food

106K Definitions

In this Division:

menu means a menu, in printed or electronic form, that lists or otherwise shows one or more items of food and that:

- (a) is on a board, poster, leaflet or the like at the premises from which the item or items of food in the menu are sold, or
- (b) is distributed or available outside of the premises from which the item or items of food in the menu are sold by means of the internet or a printed leaflet.

ready-to-eat food means food that is in a state in which it is ordinarily consumed, but does not include nuts in the shell or raw fruit or vegetables that are intended to be hulled, peeled or washed by the consumer.

sell means sell as defined in section 4 (1), but by retail only.

standard food item—see section 106L.

standard food outlet—see section 106M.

106L Meaning of “standard food item”

- (1) In this Division, **standard food item** means an item of ready-to-eat food for sale that is sold in servings that are standardised for portion and content and that:
 - (a) is listed or otherwise shown on a menu, or
 - (b) is displayed for sale with a price tag or label or an identifying tag or label,and includes any item of ready-to-eat food for sale that is of a kind, class or description prescribed by the regulations.
- (2) If a number of standard food items are shown or displayed for sale as referred to in subsection (1) as a combination, the combination is to be treated for the purposes of this Division as a single standard food item.
- (3) If an item of food referred to in subsection (1) is shown or displayed for sale in different standard sizes or portions (for example, small, medium or large), each standard size or portion of the item of food is to be treated as a separate standard food item.
- (4) Despite subsection (1), **standard food item** does not include an item of food that is packaged in a way that is prescribed by the regulations as prepackaged.

106M Meaning of “standard food outlet”

- (1) In this Division, a **standard food outlet** means premises at which standard food items are sold by a food business if:
 - (a) the food business sells standard food items at other premises or while operating in a chain of food businesses that sell standard food items, and
 - (b) at least one of the standard food items that are sold at the premises has been standardised for portion and content so as to be substantially the same as standard food items of that type sold at those other premises or by the other food businesses in the chain.
- (2) For the purposes of this section, a food business is operating in a chain of food businesses that sell standard food items if:
 - (a) it is operating as one of a group of food businesses that sell standard food items under franchise arrangements with a parent business or under common ownership or control, or

²⁷ Division 4 *NSW Food Act 2003* and Part 2 B *NSW Food Regulation 2010*. Available at: http://www.austlii.edu.au/au/legis/nsw/consol_act/fa200357/. Accessed on: 14 August 2012.

- (b) it sells standard food items under the same trading name as a group of other food businesses that sell standard food items.

106N Requirement for certain standard food outlets to display nutritional information

- (1) This section applies to a standard food outlet that is of a kind, class or description prescribed by the regulations.
- (2) The proprietor of a standard food outlet to which this section applies must ensure that:
 - (a) nutritional information of a kind prescribed by the regulations is displayed in relation to standard food items that are sold at the outlet, and
 - (b) the nutritional information is determined in accordance with any requirements of the regulations for nutritional information of that kind, and
 - (c) the nutritional information is displayed in the manner and locations prescribed by the regulations for nutritional information of that kind.
- (3) A person must not intentionally contravene subsection (2).

Maximum penalty: 500 penalty units in the case of an individual and 2,500 penalty units in the case of a corporation.

- (4) A person must not contravene subsection (2).

Maximum penalty: 100 penalty units in the case of an individual and 500 penalty units in the case of a corporation.

- (5) If, on the trial of a person charged with an offence against subsection (3) the court is not satisfied that the person committed the offence but is satisfied that the person committed an offence against subsection (4), the court may find the person not guilty of the offence charged but guilty of an offence against subsection (4), and the person is liable to punishment accordingly.

106O Voluntary display of nutritional information to meet certain requirements

- (1) This section applies to a standard food outlet other than a standard food outlet to which section 106N applies.
- (2) The proprietor of a standard food outlet to which this section applies must not display nutritional information of a kind prescribed by the regulations in relation to standard food items that are sold at the outlet unless the nutritional information:
 - (a) is determined in accordance with any requirements of the regulations for nutritional information of that kind, and
 - (b) is displayed in the manner and locations prescribed by the regulations for nutritional information of that kind.

Maximum penalty: 100 penalty units in the case of an individual and 500 penalty units in the case of a corporation.

106P Regulations relating to explanatory material about nutritional information

The regulations may make provision for or with respect to regulating or prohibiting the display or distribution by a standard food outlet of explanatory material or any other material about nutritional information for food or for any type or class of food.

106Q Exemptions from operation of Division

- (1) The regulations may exempt, with or without conditions, any class of persons, food businesses, premises, food or activities from the operation of all or any of the provisions of this Division.
- (2) Any such exemption has no effect during any period in which a condition to which it is subject is not complied with.

106R Review of Division and regulations under the Division

- (1) The Minister is to review this Division and any regulations made under this Division to determine whether:
 - (a) the policy objectives of this Division and those regulations remain valid, and
 - (b) the terms of this Division and those regulations remain appropriate for securing those objectives, and
 - (c) the terms of this Division or those regulations, or both, should be amended so that the nutritional information to be displayed includes information relating to fat and salt.
- (2) The review is to be undertaken as soon as possible after 1 February 2012.
- (3) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after that date.

Food Regulation 2010

Part 2B Requirements for display of nutritional information

16P Definitions

(1) In this Part:

convenience store does not include a supermarket.

nutrition information panel means a nutrition information panel that complies with the requirements for nutrition information panels in Division 2 of Standard 1.2.8 of the *Food Standards Code*.

supermarket means premises in which more than 1,000 square metres of floor area is used for the retail sale of grocery items which include at least all of the following items:

- (a) bread,
- (b) breakfast cereal,
- (c) butter,
- (d) eggs,
- (e) flour,
- (f) fresh fruit and vegetables,
- (g) fresh milk,
- (h) meat,
- (i) rice,
- (j) sugar,
- (k) packaged food other than food referred to in the preceding paragraphs.

(2) In this Part, expressions defined for the purposes of Division 4 of Part 8 of the Act have the same meanings as in that Division.

16Q Definition of “prepackaged food”

For the purposes of section 106L (4) of the Act, food is *prepackaged* if the food:

- (a) arrives at the premises from which it is sold in a container or wrapper in or by which the food is wholly encased, enclosed, contained or packaged (whether or not the food is also in an outer container or wrapper that encases, encloses, contains or packages multiple units of the food), and
- (b) is not removed from its container or wrapper (other than any such outer container or wrapper) before its sale at those premises.

16R Standard food outlets required to display nutritional information

The following standard food outlets are prescribed as standard food outlets to which section 106N of the Act applies:

- (a) a standard food outlet of a food business that sells standard food items at 20 or more locations in New South Wales or at 50 or more locations in Australia,
- (b) a standard food outlet of a food business that is operating in a chain of food businesses that sell standard food items if together those businesses sell standard food items at 20 or more locations in New South Wales or at 50 or more locations in Australia.

16S Kinds of nutritional information required to be displayed

(1) For the purposes of section 106N of the Act, the following kinds of nutritional information are prescribed in relation to standard food outlets:

- (a) in relation to a standard food outlet that is not a supermarket, the average energy content of each standard food item for sale by the standard food outlet concerned expressed in kilojoules,
- (b) in relation to a standard food outlet that is a supermarket, the average energy content of the whole or 100 g of each standard food item for sale by the standard food outlet concerned expressed in kilojoules,
- (c) in relation to all standard food outlets, the following statement:

The average adult daily energy intake is 8,700 kJ.

(2) The method of determining the nutritional information referred to in subclause (1) (a) or (b) is to calculate the average energy content of the whole of the standard food item concerned, or 100 g of the item, (as the case may be) in accordance with Standard 1.2.8 of the *Food Standards Code*.

- (3) If the average energy content is to be calculated for the whole of a standard food item, the average energy content is to be calculated 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 item rather than per 100 g.
- (4) The number of kilojoules calculated as referred to in subclause (2) may be rounded to the nearest 10 kJ.

16T Kind of nutritional information voluntarily displayed that must comply with requirements

- (1) For the purposes of section 106O of the Act, the kind of nutritional information that is prescribed is the energy content of any standard food item, or part or amount of a standard food item, for sale at the standard food outlet concerned.
- (2) The nutritional information is to be determined:
 - (a) in the case of a standard food item for sale at a standard food outlet that is not a supermarket, as the average energy content of the standard food item in kilojoules, and
 - (b) in the case of a standard food item for sale at a standard food outlet that is a supermarket, as the average energy content of the standard food item, or 100 g of the standard food item, in kilojoules, and
 - (c) in all cases, in accordance with Standard 1.2.8 of the *Food Standards Code*.
- (3) If the average energy content is to be calculated for the whole of a standard food item, the average energy content is to be calculated 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 item rather than per 100 g.
- (4) The number of kilojoules calculated as referred to in subclause (2) may be rounded to the nearest 10 kJ.

16U Locations for display of nutritional information

- (1) For the purposes of sections 106N and 106O of the Act, the locations where nutritional information referred to in clauses 16S (1) (a) and 16T (a) must be displayed in relation to a standard food item are:
 - (a) on each menu on which the name or price of the standard food item is displayed and on each price tag or label or identifying tag or label for the item, and
 - (b) if there are drive-through facilities, on the drive-through menu board that displays the name or price of the standard food item or on a separate adjacent board visible at or before the point of ordering, and
 - (c) adjacent to or in close proximity to the name or price of the standard food item so as to be clearly associated with the item.
- (2) The locations where nutritional information referred to in subclause (1) is displayed in relation to a standard food item are to be consistent with the locations where such nutritional information is displayed for all of the other standard food items that are displayed with that standard food item.
- (3) For the purposes of section 106N of the Act, the locations where the statement referred to in clause 16S (1) (b) must be displayed are:
 - (a) in one location on each menu on which the name or price of one or more standard food items is displayed and adjacent to or in close proximity to the standard food item or items so as to be clearly associated with the item or items, and
 - (b) if there are drive-through facilities, in one location on the drive-through menu board adjacent to or in close proximity to the standard food item or items so as to be clearly associated with the item or items, and
 - (c) in each area or display cabinet, or on each stand, where standard food items with price tags or labels or identifying tags or labels are displayed and adjacent to or in close proximity to the item or items so as to be clearly associated with the item or items and conspicuous to a person looking at the item or items.

16V Manner of displaying nutritional information

- (1) For the purposes of sections 106N and 106O of the Act, the nutritional information referred to in clauses 16S (1) (a) and (b) and 16T (1) must:
 - (a) be clearly legible, and
 - (b) display the number of kilojoules in numerals and use the abbreviation “kJ”, and
 - (c) in the case of a standard food outlet that is not a supermarket, be in the same font, and at least the same font size, as the price displayed for the standard food item concerned or, if no price is displayed, as the name displayed for the item, and

- (d) in the case of a standard food outlet that is a supermarket, be in the same font, and at least the same font size, as the price displayed for the standard food item concerned or the unit price displayed for the item (being the price per unit of measurement).
- (2) For the purposes of section 106N of the Act, the statement referred to in clause 16S (1) (b) must:
 - (a) be clearly legible, and
 - (b) in a case where only one standard food item is displayed on a menu, be in the same font, and at least the same font size, as the name of the item displayed or, if no name is displayed, as the price displayed for the item, and
 - (c) in a case where a number of standard food items are listed or displayed on a menu, be in the same font, and at least the same font size, as the name of the standard food item with the largest font size listed or displayed or, if no names are listed or displayed, as the price of the standard food item with the largest font size listed or displayed, and
 - (d) in the case of a standard food item or items displayed with a price tag or label or identifying tag or label in any area, display cabinet or stand, be in at least the same font size as the largest font size on the tags or labels for the standard food item or items in the area, display cabinet or stand.

16W Exemptions

- (1) The following food businesses are exempt from the operation of section 106N of the Act:
 - (a) convenience stores,
 - (b) service stations selling petrol or other fuel for motor vehicles,
 - (c) food businesses that primarily provide food catering services,
 - (d) food businesses that only sell food that is intended to be consumed on the premises at which it is sold.
- (2) Food sold by retail at a health care facility is exempt from the operation of section 106N of the Act.
- (3) A food business is exempt from the operation of section 106N of the Act in relation to a standard food item for a period of not more than 60 consecutive days during which the item is sold by the food business on a trial basis, but only if:
 - (a) not more than 5 standard food outlets of the food business in New South Wales sell that item during that period or part of that period, and
 - (b) the item has not been sold at any time before that period by that food business in any of those standard food outlets.
- (4) A supermarket is exempt from the operation of sections 106N and 106O of the Act until 1 February 2013.
- (5) On and from 1 February 2013, a supermarket is exempt from the operation of sections 106N and 106O of the Act in relation to a standard food item if:
 - (a) the item is displayed for sale as an individual item and is in a package on which is conspicuously displayed a nutrition information panel for the item, or
 - (b) the item is displayed for sale as part of a combination of standard food items and all of the standard food items in the combination are in one or more packages on which are conspicuously displayed nutrition information panels for each item in the combination.

Appendix 2

Examples of compliant menu boards and posters as assessed by the NSW Food Authority in 2012:

Figure 1. Sandwich chain



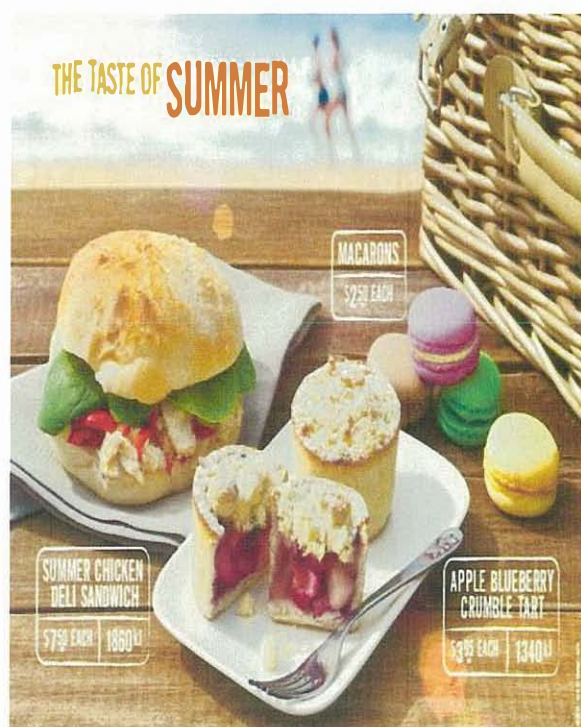
Figure 2: Pizza Chain



Figure 3: Bakery Chain



Figure 4: Coffee chain



Appendix 3

Estimated implementation costs of the legislation to the NSW government -
November 2010 to October 2012*

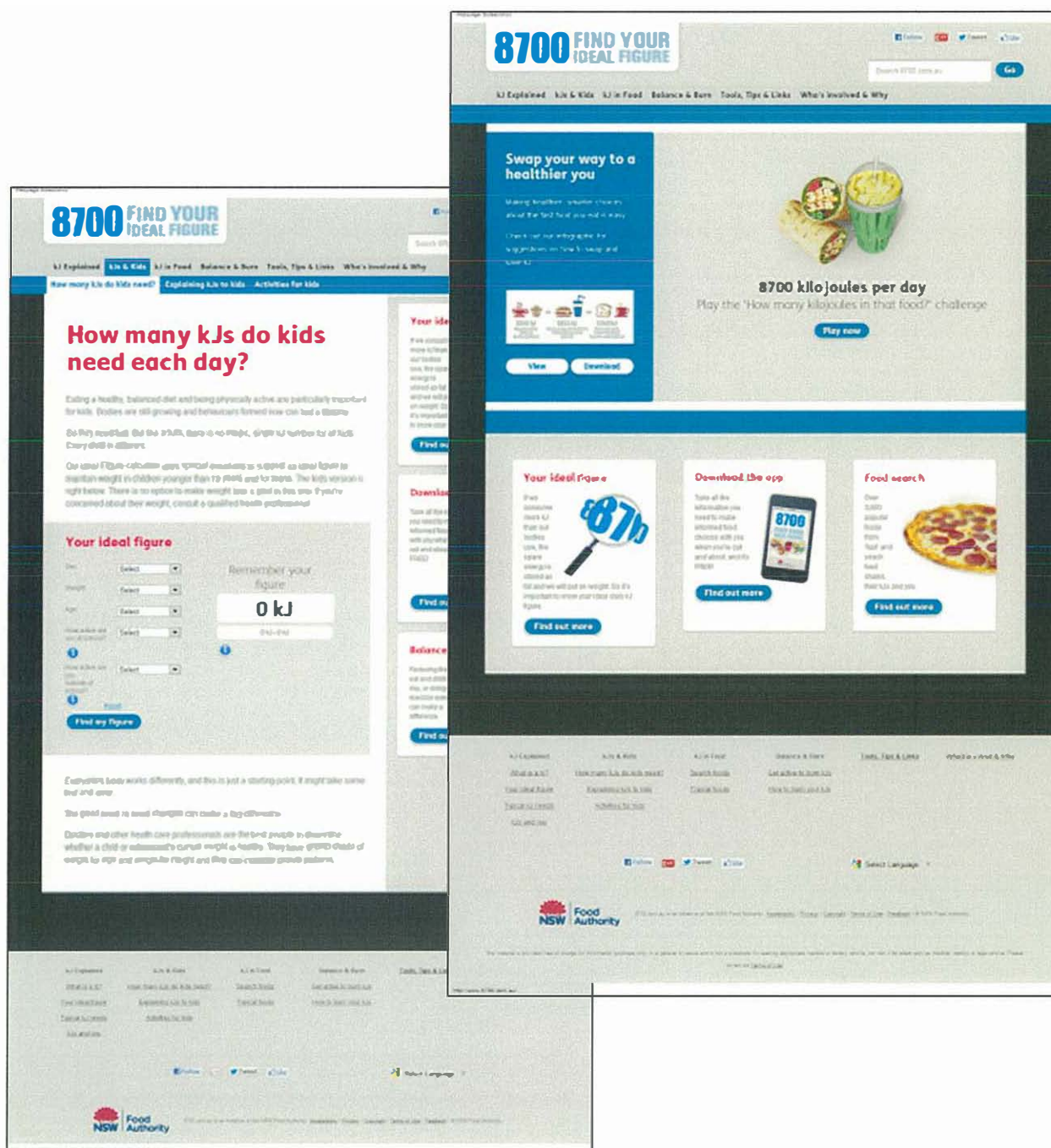
Activities		Estimated cost of outsourced work (\$)	Estimated cost of staff** time (\$)
Implementation	Assistance for industry	N/A	125,788 (1.25 FTE)
	Nutrition education for consumers	1,200,000	221,386 (2.2 FTE)
	Evaluation	330,000	100,630 (1 FTE)
	Stakeholder engagement (Reference Group and NSW Health)	N/A	10,339
Compliance activities	On-site compliance checks (incl. online and take-away menu checks)	N/A	100,630 (1 FTE)
	Verification of menu board energy values	140,000	100,630 (1 FTE)
Total costs		1,670,000	659,403

*Passage of time for implementing the legislation **Based on 9/10 FTE at \$100,630

Appendix 4

Education campaign examples:

Education campaign website



Education campaign Facebook page

8700 **8700.com.au**
Friday 14

If you're planning on some fast food this weekend, why not pull on your favourite kicks and plan to hit the gym. Check out our balance and burn calc for tips on burning kJ: <http://bit.ly/NBR116>

Like · Comment · Share

317 people like this.

View all 25 comments

8700.com.au
4,593 likes · 2,012 talking about this

Government Organization
Information, hints, tips and tools to help you find your ideal daily kilojoule figure.

About Photos Calculator

8700 **8700.com.au** shared a link
May 2

Food Watch Australia recently broke down what an 8700 kJ diet would look like with three healthy meals and daily treats like a chocolate chip muffin or Tim Tams. Then they compared a day of eating two fast food meals and snacks on the go, including your afternoon coffee and banana bread. We think you'll be surprised by the results, check it out here: <http://bit.ly/1mNa5S>

Meal	Kilojoules
Breakfast (00%)	
None	0
Late morning (40%)	
Giona Jean's Large White Chocolate Mocha	1,870
Banana bread, toasted (Giona Jean's) with butter	1,615
Lunch (20%)	
McDonald's Cheeseburger	1,190
Coca-Cola 375mL can	675
Dinner (40%)	
Super Supreme Pizza, thin crust	2,350
Mars bar, 53g	1,050
Total	8750

Like · Comment · Share

4 6

8700 **8700.com.au** shared a link
June 14

Does this sound weird to you? with a new product. It's a soft At 2,134 kJs, would you be te

Burger cha
Burger Kin
www.dailyte

BURGER Kin during the s bacon sundr

Like · Comment · Share

Am y Louise Davidson · 14
June 14 at 4:56pm · Like

Cassandra Kerpinski G...
me
June 14 at 4:57pm · Like

8700 **8700.com.au** shared a link
Tuesday

Have you tried cardio tennis yet? New to Australia in January, this cardio class burns between 1260 to 2100 kJs an hour for women, and around 2100-3360 kJs for men. If you've taken a cardio tennis class, why not let what you think. Learn more about it here: <http://cardiotennis.com.au/>

Join the Cardio Tennis Club today and enjoy a new workout

Cardio Tennis - The new high energy fitness workout
cardiotennis.com.au

It's Fun + Feeling Good, Introducing the new high energy fitness workout. But will have you and your friends

Like · Comment · Share

3 people like this.

Here's one way to burn 3,349 kJ... no exercise required.

HOW TO BURN 800 CALORIES

IN JUST 30 MINUTES

Like · Comment · Share

471 people like this.

View all 21 comments

Is the food or is it you? Kids off a healthy and happy meal with your #BFF to celebrate by adding some delicious... <http://www.dailyte>

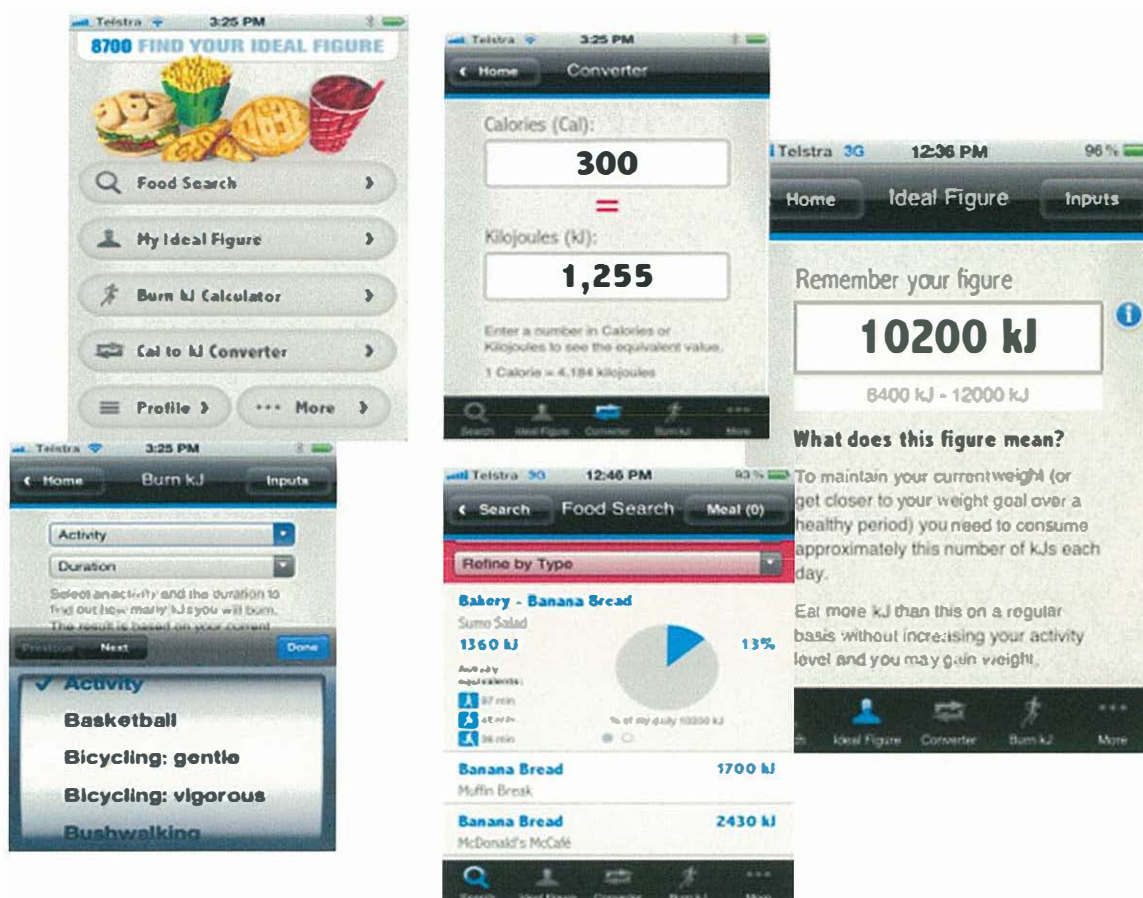
Like · Comment · Share

471 people like this.

Education campaign Twitter stream



Mobile smartphone app



Selected online advertising

8700 FIND YOUR IDEAL FIGURE



Fast Facts on Fast Food

KJ info for over 3,000 fast foods. Download our free app and be in the know on the go.

 Like - Steve Crombie likes this.

Ad related to kilojoules daily intake

8700 kilojoules a day? - How much do you eat?

www.8700.com.au/

Find your ideal figure - NSW Food Authority

Why this ad?

Food court illuminated display advertising - example




8700 kilojoules a day

Everyone has an ideal figure

It's good to know the kilojoules of energy in food. That's why major food outlets now show kilojoule figures on menus. On average people eat and drink around 8700 a day - but look for your ideal figure on 8700.com.au



8700.COM.AU

FIND YOUR IDEAL FIGURE

Appendix 5

The following lists fast food outlets that were provided with one-on-one implementation assistance by the Authority:

Ali Baba	La Porchetta
Baker's Delight	Michel's Patisserie
Baskin and Robbins	Muffin Break
Boost Juice	Nando's
Breadtop	New Zealand Natural
Brumby's	Noodle Box
Chatime,	Oporto
Cold Rock Ice Creamery	Pieface
Crust Gourmet Pizza Bar	Pizza Capers
Dominos	Pizza Hut
Donut King	Red Lea Chickens
Eagle Boys	Red Rooster
Easy Way Tea	Subway
Gloria Jeans	Sumo Salad
Grilld	The Cheesecake Shop
Hudson Coffee	The Coffee Club
Hungry Jack's	Wild Bean Café
Jamaica Blue	Wendy's
KFC	Zarraffa's
McDonalds	

Appendix 6

Fast Choices Reference Group members:

NSW Food Authority (Chair)

NSW Ministry of Health

Department of Premier & Cabinet

Choice

National Heart Foundation (NSW)

Boden Institute of Obesity, Nutrition, Exercise & Eating Disorders

George Institute for Global Health

Australian Food and Grocery Council

Australian National Retailers Association

Bakers Delight Holdings Ltd

Gloria Jean's Coffees International

Domino's Pizza Enterprises Ltd

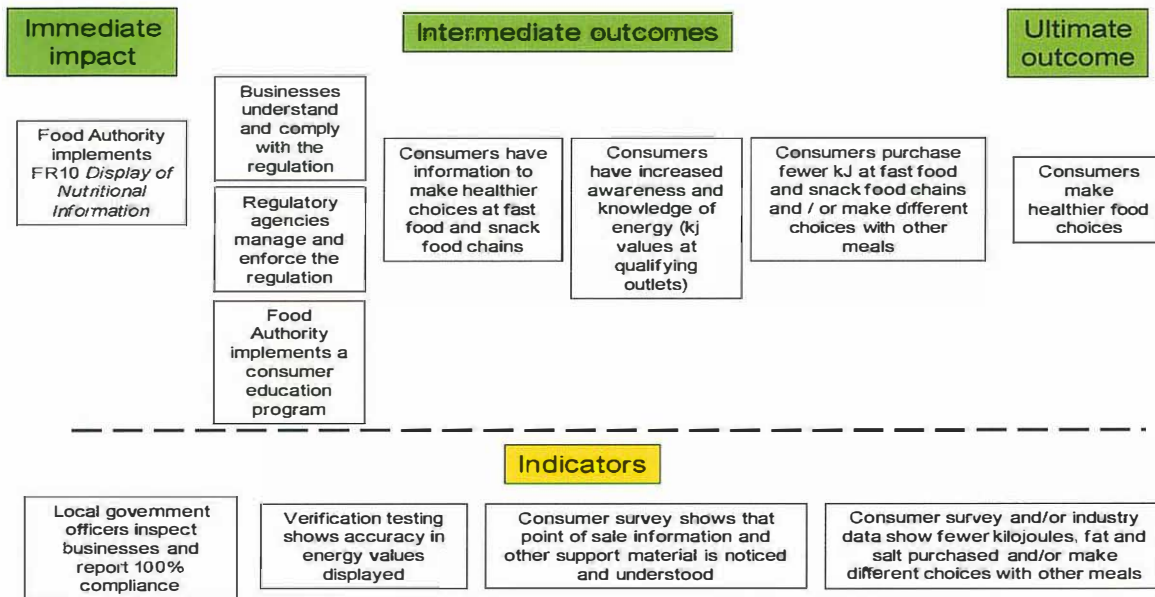
Retail Zoo

Retail Food Group Ltd

Subway

Appendix 7

Fast Choices Initiative - Program Logic Model for the Evaluation



Appendix 8

Technical notes - determining the average energy content of standard menu items

Clause 16S (3) and (4) of the Food Regulation (2010) requires the average energy content be calculated in accordance with Standard 1.2.8 of the Australia New Zealand Food Standards Code, and adjust based on the whole standard food item.

Calculating the average energy content requires first determining the amounts of various food components in that food that contributes to the energy content of the food. These components are listed in Standard 1.2.8 of the Australia New Zealand Food Standards Code and include carbohydrates, fats, proteins and alcohol among others. In calculating the average quantity of these food component Standard 1.1.1 of the Australia New Zealand Food Standards Code permits determining the quantities by:

- the manufacturer's analysis of the food
- calculating from the actual or average quantity of nutrients used or
- calculating from generally acceptable data.

Once the average quantity of the food components is calculated the average energy content is determined by multiplying the average amount of each food component per 100 grams of the food by the energy factor for that food component and then adding them together. Standard 1.2.8 lists the energy factors for each of the food component.

This method will result in some variation depending on the method chosen to calculate the average quantity of the different food component. In addition, variation in the nutrient profile of the food item can be expected due to season variation of ingredients, age of ingredient when used and amount of ingredient added to food item.