

# Overarching strategic statement for the food regulatory system

2017

## Contents

A.	Introduction/Purpose of this document.....	3
B.	Executive summary .....	4
	Who is collectively responsible for food regulation? .....	4
	What is our aim?.....	4
	How will we know when to apply food regulation in order to achieve our aims? .....	4
	How will our food regulatory system be characterised? .....	5
	How will our relationships with our stakeholders be characterised? .....	5
	How will we continuously improve the way that we regulate? .....	5
C.	The food regulatory system .....	7
	Explanation.....	7
D.	Objectives of the food regulatory system .....	10
	Explanation.....	10
	Protecting health and safety of consumers .....	10
	Enabling consumers to make informed choices about food .....	11
	Food labelling policy conceptual framework and issues hierarchy .....	12
	Food Policy Labelling Conceptual Framework .....	13
	Supporting public health objectives.....	13
	Enabling the existence of a strong, sustainable food industry .....	15
E.	The role of food regulation within the broader environment – prioritising issues .....	15
	Explanation.....	15
F.	Principles of good regulation.....	16
	Explanation.....	17
	General .....	17
	Efficient regulation .....	17

Effective regulation .....	18
Transparent regulation.....	19
Clear regulation .....	19
Equitable food regulation .....	20
G. Other desirable characteristics of the food regulatory system .....	20
Explanation.....	20
Consistency.....	20
Regulatory decisions based on sound evidence and proportionate to risk .....	20
Flexible and responsive to the food challenges of the future.....	21
Understandable, accessible and accountable .....	21
Engender consumer confidence – honest and clear risk communication .....	22
H. Our relationships with our stakeholders .....	22
Explanation.....	22
I. Continuous improvement and next steps.....	23
J. More information.....	25

# A. Introduction/Purpose of this document

The purpose of this document is to provide a strategic context for the Australian and New Zealand food regulatory system.

Over the past few years, numerous reviews of the food regulatory system have been undertaken. A number of these reviews highlighted:

- stakeholder confusion regarding the roles and responsibilities of various bodies involved in the food regulatory system;
- a lack of clarity about the objectives of the food regulatory system and the desirable characteristics of the food regulatory system; and
- some of the innate policy tensions in the food regulatory system. These tensions include, for example, the scope for the food regulatory system to achieve wider public health objectives and the extent to which the food regulatory system should facilitate trade.

These challenges have also been identified by food regulators.

In addition, there are a number of important documents that form integral parts of the food regulatory scheme such as the Joint Food Standards Treaty between Australia and New Zealand, the Food Regulation Agreement (Australia) and the [Food Standards Australia New Zealand Act 1991](#). Each of these documents contains an articulation of objectives or principles for food regulation. However, the various statements are open to different interpretations and are not always consistently expressed (in part, because each of the documents has been developed at different times and for a different purpose). This can also give rise to a lack of clarity and differing interpretations about central concepts.

The purpose of this document is to draw out some of these issues. The document aims to communicate to stakeholders (consumers and industry) the objectives sought to be achieved through food regulation. It should also assist decision makers within the food regulatory system by providing guidance in relation to policy, standard setting and implementation of food regulation.

The document articulates:

- those who are collectively responsible for the food regulatory system;
- the scope of the food regulatory system, and its broad objectives;
- a means for deciding when regulatory intervention may be appropriate;
- the specific characteristics of the food regulatory system that are considered desirable;
- the partners, stakeholders, influencers and regulated bodies that interact with food regulators, and the nature of these relationships; and

- areas where there are opportunities for continued improvement.

## B. Executive summary

### Who is collectively responsible for food regulation?

The food regulatory system is the system of policy and laws in Australia and New Zealand relating to food. Those who are responsible for the food regulatory system are all levels of Australian and New Zealand governments involved in: the setting of food policy; the making of food standards; and the implementation and enforcement of food regulation.

This is discussed in more detail in [Part C](#).

### What is our aim?

Collectively, these bodies aim to:

- protect the health and safety of consumers by reducing risks related to food;
- enable consumers to make informed choices about food by ensuring that they have sufficient information and by preventing them from being misled;
- support public health objectives by promoting healthy food choices, maintaining and enhancing the nutritional qualities of food and responding to specific public health issues; and
- enable the existence of a strong, sustainable food industry to assist in achieving a diverse, affordable food supply and also for the general economic benefit of Australia and New Zealand.

In pursuing these aims the overriding priority will always be protecting public health and safety.

These aims are discussed further in [Part D](#).

### How will we know when to apply food regulation in order to achieve our aims?

We recognise that we have broad aims and that food regulation will not always be the one (or only) means for advancing these objectives.

The role that the food regulatory system plays in relation to any particular issue will depend on further consideration of:

- the priority of an issue within the context of broader strategies (such as public health, animal and plant health and industry development strategies; and
- whether regulation is the most appropriate tool for addressing a particular food issue, taking into account the principles of good regulation. These principles require us to be:

- efficient in our use of regulation (for example, we will find an optimal level of regulation so as to achieve the desired outcomes with minimal cost);
- effective in our use of regulation (for example, we will ensure that food regulation is able to be complied with and enforced, has clear outcomes, is flexible and is regularly reviewed); and
- clear, transparent and equitable in our regulation making processes.

These concepts are discussed further in [Part E](#) and [Part F](#).

## How will our food regulatory system be characterised?

The food regulatory system will:

- be consistent throughout Australia and as consistent as possible between Australia and New Zealand;
- ensure that regulatory decisions are based on sound evidence and are proportionate to the associated risk;
- be flexible and responsive to the food challenges of the future;
- be understandable, accessible and accountable to all stakeholders; and
- engender a high degree of consumer confidence, including through effective, honest and clear risk communication.

These characteristics are discussed further in [Part G](#).

## How will our relationships with our stakeholders be characterised?

Critical to the achievement of our objectives will be promoting collaboration, partnerships and consultation with the myriad of stakeholders involved in food regulation.

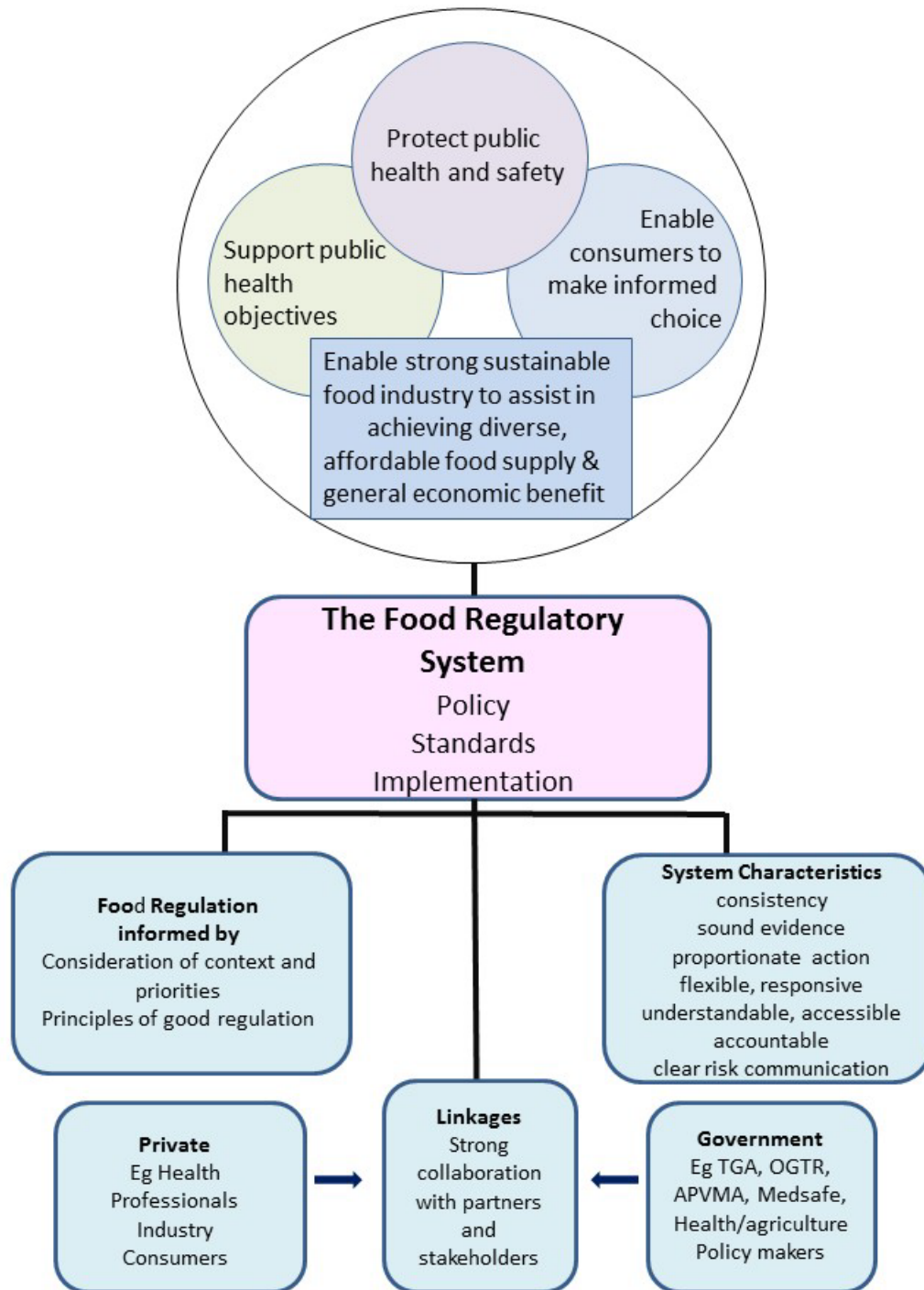
We will work closely with our partners and stakeholders to identify and prioritise the role of food regulation within the context of broader strategies.

Our relationships with our stakeholders are discussed further in [Part H](#).

## How will we continuously improve the way that we regulate?

This Overarching Strategic Statement is intended to provide a context for stakeholders to contribute their views on priorities for collaborative work programs and the activities of individual agencies. These priority areas will be fed into existing planning processes undertaken by both the Implementation Subcommittee for Food Regulation (ISFR) and the Food Regulation Standing Committee (FRSC). This is discussed further in [Part I](#).

Diagram 1: Aims of the food regulatory system



## C. The food regulatory system

The food regulatory system is the system of policy and laws in Australia and New Zealand relating to food. For New Zealand this relates primarily to labelling and composition arrangements.

Those who are responsible for the food regulatory system are all levels of Australian and New Zealand governments involved in:

- the setting of food policy;
- the making of food standards; and
- the implementation and enforcement of food regulation.

Collectively, these bodies are committed to achieving the objectives detailed in this document.

### Explanation

The food regulatory system is established through the Food Regulation Agreement and the Joint Food Standards Treaty. These agreements are underpinned by the [Food Standards Australia New Zealand Act 1991](#) and legislation in each jurisdiction.

The food regulatory system comprises a complex web of participants within the Australian Government, New Zealand Government and Australian State, Territory and local Governments.

The **policy makers** include:

- the Australia and New Zealand Ministerial Forum on Food Regulation (Forum), whose role is to develop domestic food regulation policy in the form of policy guidelines. The Forum comprises the Ministers from all Australian States and Territories, as well as the Australian and New Zealand Governments, who have responsibility for food regulation. The Australian Local Government Association (ALGA) participates as an observer;
- the Food Regulation Standing Committee (FRSC) which is responsible for coordinating policy advice to the Forum, and ensuring a nationally consistent approach to the implementation and enforcement of food standards. Membership of FRSC reflects the membership of the Forum, and comprised the heads of Departments for which the Ministers represented on the Forum have portfolio responsibility. ALGA participates as a full member of FRSC; and

- Australian, New Zealand, State and Territory Departments and agencies that are responsible for food regulation policy and for informing the Forum and FRSC. The responsible agencies vary in each jurisdiction, but generally include policy areas within the relevant Departments of Health, and also within Departments of Industry, Agriculture and/or Primary Industries.

The **standard setting body** is Food Standards Australia New Zealand (FSANZ). FSANZ is the statutory authority responsible for developing joint Australia and New Zealand food standards based on scientific/technical criteria, consistent with Forum policy. FSANZ also develops Australia-only food standards that address food safety issues – including requirements for primary production. The Forum is responsible for considering standards developed by FSANZ.

The **implementation and enforcement agencies** are those Australian and New Zealand bodies responsible for implementing and enforcing food regulation. The food standards are given effect through jurisdiction-specific legislation. The bodies responsible for administration of the legislation vary between jurisdictions but include:

- Australian Government Departments (imported and exported food);
- State and Territory government departments, agencies and authorities; and
- local government, where there are over 600 local councils involved in monitoring and enforcement throughout Australia and close to 100 in New Zealand.

FRSC established ISFR to coordinate approaches with a view to consistency.

As discussed in the following parts, a key issue in the context of an overarching strategy for food regulation is identifying our partners and stakeholders and building strong relationships with them.

For example, by working closely with those who are responsible for broader policy (such as public health, animal and plant health, and industry development) this can assist in prioritising areas for action within food regulation. This is discussed further in Part D.

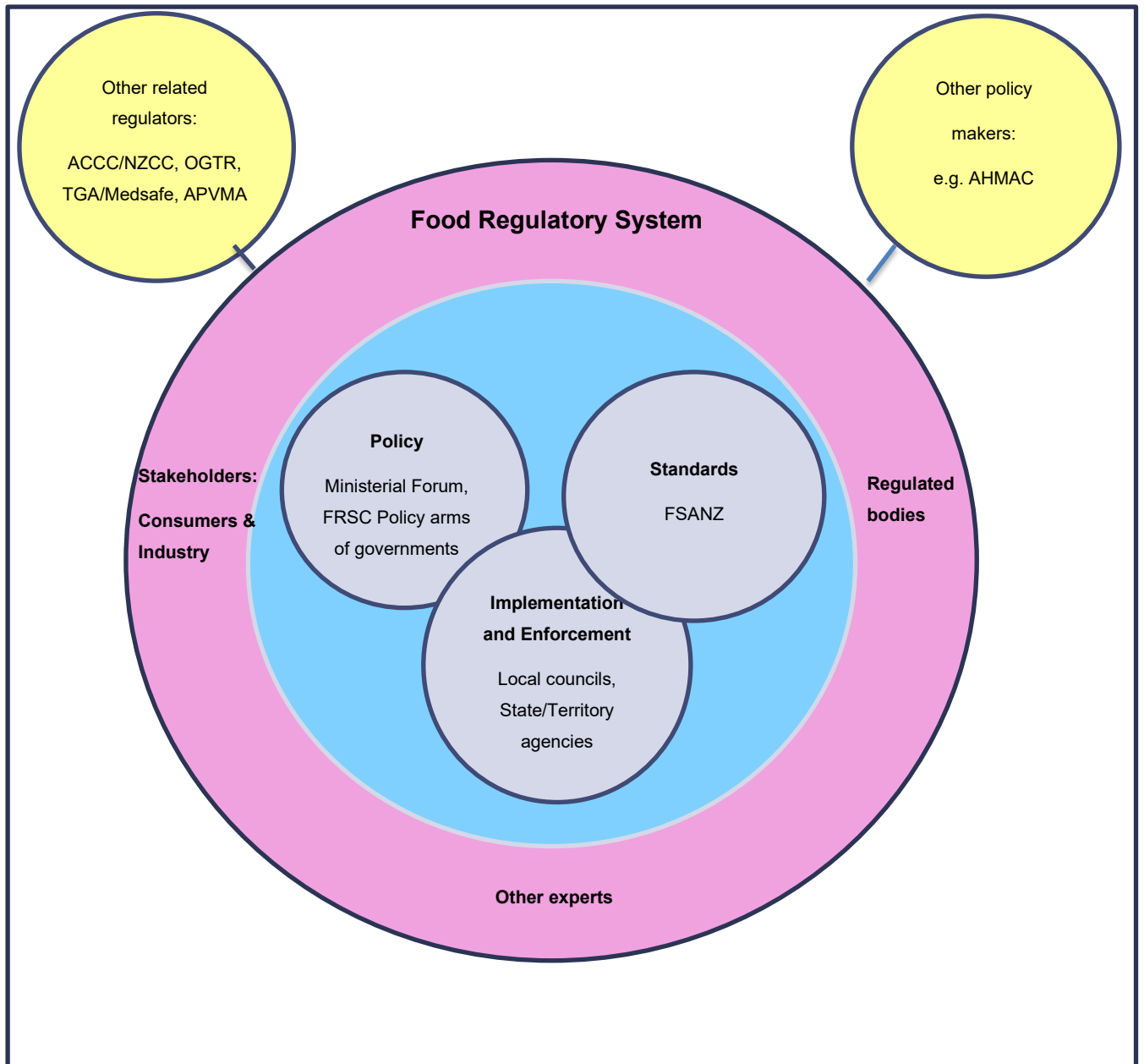
Another critical part of the food regulatory system is active engagement with those who directly influence and inform food regulation. This includes:

- those individuals and organisations who are subject to food regulation, such as food businesses;
- those individuals and organisations who are experts in relevant policy or technical areas and influence policy, standard setting and implementation; and
- consumers and industry.



Each of the different bodies within the food regulatory system (policy setters, standard setters and enforcers) has different relationships with these groups of people. In fact, the nature of the relationship also changes from issue to issue. Understanding these relationships assists in identifying an overarching strategy for food regulation. This is discussed further throughout this document.

**Diagram 2: The food regulatory system**



## D. Objectives of the food regulatory system

We aim to:

- protect the health and safety of consumers by reducing risks related to food;
- enable consumers to make informed choices about food by ensuring that they have sufficient information and by preventing them from being misled;
- support public health objectives by:
  - promoting healthy food choices;
  - maintaining and enhancing the nutritional qualities of food; and
  - responding to specific public health issues.
- enable the existence of a strong, sustainable food industry to assist in achieving a diverse, affordable food supply and also for the general economic benefit of Australia and New Zealand.

In pursuing these aims the overriding priority will always be protecting public health and safety.

We recognise that these are broad aims and that food regulation will not always be the one (or only) means for advancing these objectives. The role that the food regulatory system plays in relation to any particular issue will depend on further consideration of two key issues:

- a consideration of the priority of an issue within the context of broader strategies (such as public health, animal and plant health and industry development strategies); and
- whether regulation is the most appropriate tool for addressing a particular food issue, taking into account the principles of good regulation.

These issues are discussed in more detail in [Part D](#) and [Part E](#).

### Explanation

#### Protecting health and safety of consumers

- the primary goal of the regulatory system is to protect the health and safety of consumers of food – in other words, to protect Australians and New Zealanders from preventable health risks associated with the consumption of food.
- this means:

- helping to prevent people becoming sick or dying as the result of the consumption of unsafe food; and
- providing consumers with information so that they can choose appropriate food and remain healthy over time.
- The food regulation system aims to reduce risks related to food by:
  - reducing foodborne illness;
    - Annually there are approximately 5.4 million cases of foodborne illness in Australia. Contaminated food causes approximately 18,000 hospitalisations and 120 deaths every year in Australia. Foodborne illness is a similar problem in New Zealand. Reducing the risk of foodborne illness is therefore a major public health priority.
  - reducing the risk of contamination of food; and
    - In addition to microbiological contaminants causing foodborne illness, there are other physical and chemical contaminants that can also cause injury or illness. Minimising the contamination of food helps to prevent short and long term adverse effects.
  - reducing other health risks associated with the consumption of certain foods or food additives.
    - For example, one of the purposes of the food regulatory system is to thoroughly assess novel foods or new additives to foods to ensure that they are safe for consumption before being made available to the public. A further example is the assessment of naturally occurring toxins that may be present in foods.

## **Enabling consumers to make informed choices about food**

- The regulatory system can assist consumers in making informed choices about food. Mandatory labelling one of a number of ways the system can do this.
- Labelling requirements are important to inform consumers about the safety of food – either the safety of the food generally, for example ‘use by’ dates, or for them as individuals, for example, allergen labelling. This falls under the objective of supporting public health objectives.
- The food regulatory system can assist consumers in choosing appropriate foods. For example, Nutrition Information Panels on foods inform consumers of the nutritive value of the foods they are selecting. This falls under the objective of supporting public health objectives.

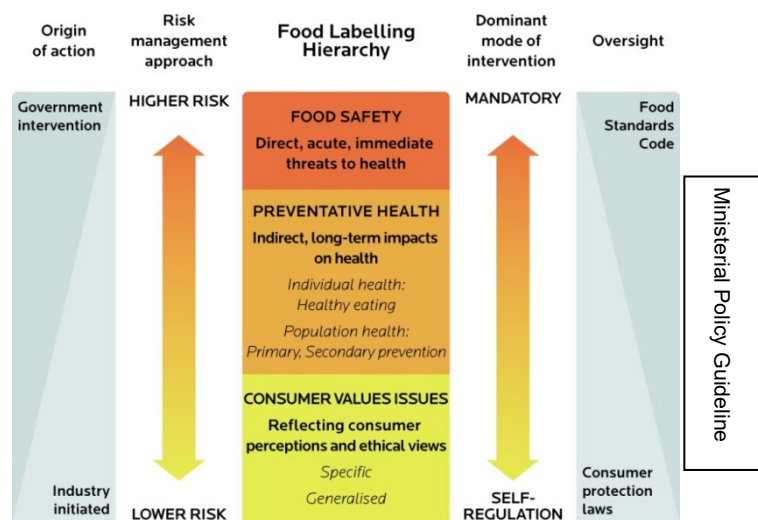
- The food regulatory system has at times been used to provide information to consumers about where the food has been produced and by what methods (for example, country of origin and GM labelling). These issues challenge the boundaries of the food regulatory system, as they do not relate to protection of the health and safety of consumers or to broader public health objectives.
- The food regulatory system also has a role in preventing misleading conduct in relation to information presented on food. There are also close linkages between the food regulatory system and the Australian Competition and Consumer Commission (ACCC) and the Commerce Commission New Zealand, and State and Territory fair trading bodies.

## Food labelling policy conceptual framework and issues hierarchy

- It is recognised that food labelling policy is complex, with often competing interests of consumers, industry and government coming to the fore. For this reason, a conceptual framework has been developed to provide a principles-based approach for decision making regarding food labelling regulation (refer diagram below). The framework is underpinned by a risk-based issues hierarchy that is to be applied in the development of food labelling policy.
- Food labelling policy is to be guided by a three tier issues hierarchy in descending order of:
  - food safety;
  - preventative health; and
  - consumer values issues.
- Food safety includes direct, acute, immediate threats to health. It particularly relates to poisoning and communicable diseases.
- Labelling in relation to food safety should primarily be initiated by government and referenced in the Food Standards Code (see below).
- Preventative health includes the indirect, long term impacts on health and particularly includes chronic disease. Labelling in relation to preventative health may be initiated by government or in tandem with stakeholders, including industry. The level of intervention will be informed by governments' health priorities, public health research and the effectiveness or otherwise of co-regulatory measures.
- Consumer values reflect consumer perceptions and ethical values. Labelling in relation to consumer values should generally be initiated by industry in response to

consumer demand, with the possibility of some specific methods or processes of production being referenced in regulation, where this is justified. Usually, any regulatory action would be under consumer protection law rather than food regulation.

## Food Policy Labelling Conceptual Framework



- While the labelling of foods produced or processed using new technologies is generally categorised as a consumer values issue, there is an argument that such foods should be treated differently from foods produced using more traditional techniques due to the lack of historical data regarding human consumption.
- A Ministerial Policy Guideline on the labelling of food produced using new technologies was agreed by the Forum on 27 June 2014. The Policy Guideline provides guidance on the expectations of Ministers for the case-by-case consideration of both regulatory (i.e. labelling) and non-regulatory measures of foods produced or processed using a new technology. The scope of the Policy Guideline is limited to foods that require a pre-market safety assessment because they use a new technology. It is recognised that any labelling of products is for consumer information only and is not related to a public health and safety issue.

## Supporting public health objectives

- Public health is defined as 'the organised response by society to protect and promote health, and to prevent injury, illness and disability'. Public health efforts generally

focus on the upstream determinants (environmental, social and behavioural determinants) of preventable health problems in whole populations<sup>1</sup>.

- In addressing the upstream determinants of health a spectrum of strategies is required, including advocacy, education, policy and planning, and fiscal measures. Legislation also makes an important contribution in many areas of public health.
- Public health and safety in relation to food refers to all those aspects of food consumption that could adversely affect the general population or a particular community's health either in the short or long term. Adverse impacts include preventable diet-related disease, illness and disability as well as acute food safety concerns.
- Food regulation, as one of a range of strategies, may play an important role in preventing and reducing disease, illness and disability, including by:
  - facilitating healthy good choices – for example by labelling foods to indicate their nutritive value;
  - maintaining and enhancing the nutritional qualities of food – for example, providing storage and handling information and enabling fortification to restore nutrients lost during processing; and
  - responding to specific public health issues through the food supply – for example, by requiring mandatory fortification of foods with substances designed to address specific public health needs.
- Depending on the particular public health issue to be addressed:
  - There may be a strong role for food regulation;
  - There may be no role for food regulation; or
  - Food regulation may play a supporting role as a component of coordinated, multi-sectoral and population-wide strategies aimed at diet-related determinants of public health.

---

<sup>1</sup> National Public Health Partnership (2006) *The language of prevention*.

## Enabling the existence of a strong, sustainable food industry

- A strong food industry is in the interests of both Australia and New Zealand in terms of general benefits to the economies of both countries, and also in terms of ensuring an ongoing, diverse and affordable food supply.
- There are three ways in which the food regulatory system can enable the existence of a strong sustainable food industry.
- Firstly, if food regulation is effective in reducing foodborne illness and the risk of contaminations, and if consumers have confidence in the food regulatory system and the safety of the food supply, these outcomes will assist industry. In this case, the interests of consumers and industry are aligned.
- Secondly, if the food regulatory system is an efficient and effective one (for example, one that is predictable, flexible, appropriately adapted to the risk and timely) then this will facilitate trade. As industry has noted, of particular importance is minimising unnecessary delays in the setting of food policy and food standards so as not to postpone industry bringing safe food to the Australian and New Zealand marketplaces.
- Thirdly, there may be circumstances where food standards are used to actively facilitate trade. For example, Standard 4.5.1 – Wine Production Requirements (Australia only) was developed in response to strong concerns that sales of Australian wine to the European Union (EU) may be jeopardised when the provisions relating to wine in the former Australia Food Standards Code became the sole Code for food regulation. The new wine standard ensured continuation of access of Australian wine to the EU.
- In all cases it is imperative that public health and safety is not compromised.

## E. The role of food regulation within the broader environment – prioritising issues

*We will work closely with our partners and stakeholders to identify and prioritise the role of food regulation within the context of broader strategies.*

### Explanation

Part D described a very broad set of objectives for food regulation.

Clearly food regulation alone cannot achieve all of the objectives detailed above. Further, in some cases, particular issues will simply not be priorities for food regulation.

We recognise that sometimes this has been difficult to achieve. We also recognise that as the food regulatory system is increasingly called on to play a role in supporting public health objectives (for example, as part of obesity prevention strategies), it will be increasingly important to clearly identify and prioritise the role of food regulation in the broader context.

This will require sustained communication and collaboration with our public health and other partners.

A concrete example of where this is currently occurring is in relation to maximum residue limits (MRLs). In Australia, the setting of legal limits for residues resulting from the use of chemicals, both for domestic and important food requires extensive collaboration between FSANZ and the Australian Pesticides and Veterinary Medicines Authority (APVMA). This collaboration has resulted in the harmonisation of the process for setting MRLs.

Internationally both Australia and New Zealand are also working together to develop a coordinated approach to the process of setting international MRLs by Codex, the international reference body. This includes collaboration between public health, agriculture and trade agencies.

## F. Principles of good regulation

*Once a particular issue has been identified as a priority within the broader context, we will apply the principles of good regulation to determine whether regulation is the most appropriate response to a particular issue.*

These principles require us to:

- be efficient in our use of regulation. This means that we will:
  - find an optimal level of regulation so as to achieve the desired outcomes with minimal cost;
  - minimise the impact on competition;
  - where possible, ensure compatibility with international standards; and
  - not restrict international or interstate trade.
- be effective in our use of regulation. We will ensure that food regulation:
  - is able to be complied with and effectively enforced;
  - has clearly identifiable outcomes;



- is flexible; and
- is regularly reviewed.
- be transparent in our regulation making process;
- have regulatory processes and requirements that are as clear, understandable and accessible as possible; and
- be equitable.

## Explanation

### General

- Part D described a very broad set of objectives for food regulation. In particular cases, food regulation may not be the most appropriate response to an issue, despite that issue coming within the broadly-expressed objectives of the food regulatory system.
- the way in which we will determine whether food regulation is the most appropriate response to a particular issue will be to apply principles of good regulation.
- such principles have been developed (and agreed at the highest level) in both Australia and New Zealand. In Australia the principles are described in *Principles and Guidelines for National Standard Setting and Regulatory Action by Ministerial Councils and Standard-Setting Bodies* (issued by the Council of Australian Government) and in New Zealand similar principles are reflected in the *Code of Good Regulatory Practice* set by the New Zealand Ministry of Economic Development and endorsed by the New Zealand Cabinet.

This part summarises these principles – drawing on both the Australian and New Zealand documents.

### Efficient regulation

- we will identify and assess the most feasible regulatory and non-regulatory options for addressing a particular problem, calling on appropriate expertise as necessary.
- before deciding on a path of government-imposed regulation, a number of questions need to be asked. The questions form a framework from which to decide the course of action to be taken. Relevant questions include:
  - Is regulation needed (what is the problem being addressed, and where is the market failure)?
  - Is regulation likely to improve upon market outcomes?

- What are the alternative approaches to dealing with the problem?
- What are the likely benefits, including risk reduction, of the proposed regulation? Who will reap the benefits, and how certain are those benefits?
- What are the likely costs of the proposed regulation, and who in the community will bear those costs?
- What is the feedback from the community and affected stakeholders on the matters detailed above?
- What support is there for the proposed regulation?
- What impact will the proposed regulation have on competition?
- in general, the proposals with the greatest net benefit to society will be selected.
- if regulation is desirable, we will ensure that regulatory measures are the minimum required, and the least distorting, in achieving our desired outcomes.
- we will design food regulation so as to:
  - have minimal impact on competition. We will not restrict competition unless it can be demonstrated that the benefits to the community from a restriction on competition outweigh the costs, and that the objectives of regulation can only be achieved by restricting competition; and
  - minimise the financial impact of administration and enforcement on consumers, government, and on regulated bodies.
- wherever possible, the regulatory measures or standards we use will be compatible with relevant international or internationally accepted standards or practices and consistent with obligations under the GATT Technical Barriers to Trade Agreement (Standards Code) and the World Trade Organisation's Sanitary and Phytosanitary Measures (SPS) Code.
- Food regulation will not discriminate in the way it is applied between domestic products or imported products, nor between imports from different supplying countries. The regulation will not create unnecessary obstacles to international trade.

## Effective regulation

- a regulation is neither efficient nor effective if it is not complied with or cannot be effectively enforced. We will ensure that food regulatory measures contain compliance strategies which ensure the greatest degree of compliance at the lowest possible cost to all parties.

- We consider that benefits flow to all (especially consumers) if regulatory bodies can assist industry to achieve strong compliance with the law. We will endeavour to do this by working with the food industry to maintain their commitment in the production of food that contributes to better public health and safety.
- we will ensure that food Standards (and other regulatory measures) will be capable of revision to enable them to be adjusted and updated as circumstances change. However, we also recognise that it is important to ensure that amendments to regulatory measures and instruments do not result in undue uncertainty.
- performance-based requirements that specify outcomes rather than inputs will be used, unless prescriptive requirements are unavoidable in order to ensure public safety. This will help ensure predictability of regulatory outcomes and facilitate innovation.
- the food regulations will be systematically reviewed in order to ensure that they continue to meet their intended objectives efficiently and effectively.

## Transparent regulation

- the regulation making process will be transparent to both the decision-makers and those affected by regulation.
- this involves clearly identifying the nature and extent of the problem to be addressed and the process of evaluating the need for government action. Our regulatory proposals will be subject to a systematic review of the costs and benefits as well as a thorough risk assessment.
- public consultation will occur as widely as possible. This will contribute to better quality regulations, identification of the more effective alternatives, lower costs to business and administration, ensure better compliance, and promote faster regulatory responses to changing conditions. This is discussed in more detail in Part G.

## Clear regulation

- Where possible, food regulation will be drafted in 'plain language' to improve clarity and simplicity, reduce uncertainty and enable the public to better understand the implications.
- We will also aim to keep discretion to a minimum, but be consistent with the need for the system to be fair. Good regulation should attempt to both minimise and standardise the exercise of bureaucratic discretion, in order to reduce discrepancies between government regulators, reduce uncertainty, and lower compliance costs.

## Equitable food regulation

Food regulation will be fair and treat those affected equitably.

## G. Other desirable characteristics of the food regulatory system

*The food regulatory system will also:*

- be consistent throughout Australia and as consistent as possible between Australia and New Zealand;
- ensure that regulatory decisions are based on sound evidence;
- be flexible and responsive to the food challenges of the future;
- be understandable, accessible and accountable to all stakeholders; and
- engender a high degree of consumer confidence, including through effective, honest and clear risk communication.

## Explanation

### Consistency

- we are seeking a consistent approach across jurisdictions to the way regulations and standards are interpreted and enforced, regardless of where food is sourced.
- we recognise, however, that there is a need for flexibility, and that there are limitations on consistency as a result of the Federal system in Australia and issues of sovereignty between Australia and New Zealand.

### Regulatory decisions based on sound evidence and proportionate to risk

- decisions will be made, and action taken, in a way that is proportionate to the associated risk.
- it is recognised that there is often uncertainty in the science of underlying food regulatory decisions. Efforts will be made to explain these uncertainties and to clarify how uncertainties have been addressed.
- scientific certainty is rarely achieved in practice. We will not allow the absence of certainty to delay proportionate action. Equally, we will not use the absence of scientific certainty as an excuse for taking action other than when needed to protect

public health and wellbeing. Such action will be reviewed if new evidence becomes available.

- where there is a risk of serious damage to public health, we will act quickly to implement necessary measures to reduce health risks.
- we will seek out and adopt best practice for all of our activities, ensuring in particular that our actions and decisions are targeted effectively.

## **Flexible and responsive to the food challenges of the future**

- while needing to be predictable, the food system also needs to be flexible in order to anticipate and respond to safety and nutrition challenges of the future as well as advances in food technology.
- This requires:
  - regulatory responsiveness to food innovation;
  - enabling consumer access to foods with assessed health benefits;
  - modernising the regulatory toolkit to address the contribution unhealthy diets make to the incidence of chronic disease;
  - improving Australia's responsiveness to acute food safety health risks (responding to new threats while managing ongoing risks); and
  - promoting a sustainable and integrated system for food safety and nutrition.

## **Understandable, accessible and accountable**

- the regulatory system (its structure and processes), as well as the regulatory requirements, will be understandable and clearly communicated to all stakeholders.
- if stakeholders are well informed about the regulatory system and the opportunities for input into policy and standard setting, better participation and outcomes are likely to result.
- we will consult widely on our activities, ensuring that our processes are simple and accessible so that all relevant parties are given the opportunity to make their views known.
- the regulatory system will be open, transparent and accountable. Decisions and the information on which they are based will be recorded and accessible, so that any organisation or individual can make informed judgements about the way in which food is regulated in Australia and New Zealand.
- we will achieve this by:

- communicating with stakeholders to improve awareness of our regulatory role and understanding of our processes and requirements;
- engaging with stakeholders on proposed regulatory change;
- acknowledging and responding to stakeholder input; and
- ensuring transparency and timeliness in our dealings with stakeholders.

## Engender consumer confidence – honest and clear risk communication

- a key priority is enhancing the effectiveness of our risk communication for food safety and nutrition risks.
- food safety depends not only on sound science, risk assessment and risk management, but on broad and effective risk communication. This includes dissemination of accurate information to consumers, and also effective training and education for everyone from the food producer to the consumer. Information, training and education play a critical role in achieving food safety.
- for this reason, our strategy depends on developing clear messages, fostering networks, harnessing information technology, and strengthening partnerships. While some important mechanisms are in place to help with this effort, more remains to be done.

## H. Our relationships with our stakeholders

*Critical to the achievement of our goals will be promoting collaboration, partnerships and consultation with the myriad of stakeholders involved in food regulation. The way that we collaborate and consult with others will be influenced by their relationship to us as food regulators.*

### Explanation

- as food regulators we have different types of relationships with different groups of people in different circumstances.
- we have a relationship with our two key stakeholders – consumers (those who eat food) and industry (those who make or provide food to consumers). We endeavour to engage consumers and industry in all stages of the food regulatory process – policy setting, standard setting and implementation. In this context, consumers and industry are most commonly represented by peak bodies.

- we have a different type of relationship with those we regulate such as food businesses. While many of these food businesses are represented by industry associations (and therefore provide input into each of the stages of the food regulatory process), another focus of our relationship with food businesses is to work with them to assist in achieving a high level of compliance with food regulation.
- we have other types of relationships with:
  - policy making bodies that are outside the food regulatory system. There are issues that require food regulators (and food regulation policy makers) to enter into discussions with other policy-making bodies in order to identify the role (if any) for food regulation in the context of broader policy; and
  - those who influence policy, standard setting and implementation, but are not policy makers or regulated parties. This includes, for example, experts, academics and others who contribute advice to food regulators at the policy, standard setting or implementation level.
- finally, we also have ‘partner relationships’ whereby we work with another body to implement food regulation. For example, our partners include other regulators in areas related to food such as the Office for Gene Technology, Medsafe and APVMA. On occasion, our partners also include industry where, for example, we adopt a co-regulatory approach and jointly develop and implement an industry Code of Practice.

## I. Continuous improvement and next steps

In developing the desirable characteristics of the system as a whole, FRSC has developed a blueprint that includes the framework for policy development. It highlighted areas where we will seek to improve. In moving forward, the following needs to be recognised:

- federation responsibilities are shared across Government agencies;
- public health and safety will always remain the main objective of the system;
- new public health challenges will continue to emerge;
- while Stakeholders prefer a focus on consistency this does not mean that issues need to be tackled in the same way;
- there is pressure to reduce regulatory burden - while the current level of food regulation may not be industry’s highest concern, there is scope for a more contemporary approach to the design and implementation of food policy;

- while we are seeking a system that provides flexibility, we need to maintain the same level of certainty for industry to operate as the current arrangement;
- The food industry is diverse, with some seeking considerable flexibility and others seeking a high level of certainty; and
- resources are and will remain constrained.

As part of this review three themes were the opportunities to further strengthen the joint Australia and New Zealand Food Regulation System were identified:

- reshaping policy development to ensure that in depth problem identification and assessment processes are followed by robust consideration of the full range of possible approaches including non-regulatory approaches;
- strengthening partnership opportunities that arise within existing arrangements to achieve efficiencies through the identification of shared goals and outcomes; and
- promoting the food system to a wide audience thereby improving public and stakeholders understanding and confidence in the value of the regulatory system.

**The framework will include the following elements:**

- Clear goals and objectives
- Clear roles for all committees and clear decision making points
- Genuine, effective two-way engagement
- Full understanding of the issue, (problem), risks, challenges and opportunities
- Collection of evidence and information that informs understanding
- A full range (whole of system) of policy options generated and evaluated
- Implementation issues as a key consideration for policy
- Using the best tools that achieve the desired outcome
- Focus on achieving consistent outcomes
- Government intervention only where there is a market failure - regulation is not the default position
- Evaluate for impact and efficiency post implementation considered during development
- Promoting the food system to improve stakeholders understanding and confidence



These themes and elements will be fed into existing planning processes. FRSC and ISFR each have planning processes which set priorities and set the work programs. FSANZ participates in these processes.

The Food Regulation System maintains a work plan of current activities on the website.

In April 2017 the Forum agreed Food Regulation priorities for 2017 - 2021. Ministers agreed the food regulation system is producing strong food safety outcomes overall, and identified three priority areas to further strengthen the system:

- To **reduce foodborne illness**, particularly related to Campylobacter and Salmonella, with a nationally-consistent approach. Ministers requested the development of a draft national strategy, noting New Zealand has an existing Campylobacter strategy, for consideration at the next Forum meeting that outlines specific interventions across the food supply chain to reduce foodborne illness associated with Campylobacter and Salmonella. This strategy is to be developed in collaboration with industry, includes improved transparency through monitoring across the food chain, be based on contemporary evidence, and engages the community.
- To **support the public health objectives** to reduce chronic disease related to overweight and obesity. This will include evaluating the effectiveness of existing initiatives and identify potential new initiatives, such as how the food regulation system can facilitate healthy food choices and positively influence the food environment.
- To **maintain a strong, robust and agile food regulation system** that gives confidence to consumers that their food is safe, and that the system can manage new and innovative industry approaches.

By being proactive the food regulation system will not only better protect consumers, it will also support the food industry to meet consumer demands.

## J. More information

This document provides an overarching strategy for the food regulatory system within the context of national and trans-Tasman agreements and the legislative frameworks that operate nationally and in individual jurisdictions. The major documents that provide interested readers with further information about the food regulatory system and the way that it operates are listed below.

These include:

- the **Joint Food Standards Treaty between Australia and New Zealand** – this sets out the agreement between Australia and New Zealand in relation to the joint food regulatory system. It includes the key objectives of the two parties.
- the **Food Regulation Agreement** (Australia) – this is an inter-governmental document signed by all Australian governments committing to a national system of food regulation. It also includes a summary of the objectives being pursued by the parties, and the key elements of the nationally consistent approach.
- the **Food Standards Australia New Zealand Act 1991** (Australia) – this is the legislation that sets out the process for the making of food standards, including the opportunities for stakeholder consultation.
- the joint **Food Standards Code** is developed and administered by FSANZ and includes the joint food standards for Australia and New Zealand covering: the microbiological safety of food; the composition of food, including contaminants, residues, additives or other substances; and information about food, including labelling and advertising. The Code also contains information on the purpose, interpretation and application of standards. These food standards generally apply to all foods produced or imported for sale in Australia and New Zealand (with regards to composition and labelling standards).