



Consumers Health
Forum OF Australia

SUBMISSION

**Department of Health and Aged
Care Consultation: Improving
commercial foods for infants
and young children.**

September 2024

Consumers Health Forum of Australia (2024)
*Submission to Department of Health and Aged Care Consultation:
Improving commercial foods for infants and young children..*
Canberra, Australia

P: 02 6273 5444

E: info@chf.org.au

twitter.com/CHFofAustralia

facebook.com/CHFofAustralia

Office Address

7B/17 Napier Close
Deakin ACT 2600

Postal Address

PO Box 73
Deakin West ACT 2600

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Overview & background

During the first 2000 days, food and nutrition have crucial roles in a child's growth and development. Consumption of commercial foods for infants and young children has increased in recent years and is becoming more common as parents and caregivers see these as convenient, economical and healthy options. With the increase in popularity, the commercial food market for infants and young children has also grown significantly.

The current nutritional formulation and quality of most commercial foods for infants and young children does not support optimal growth and development for this age group. Many products have been found to be high in energy and sugars and do not provide adequate nutrients critical for early development such as iron. The texture of many infant foods does not support optimal developmental feeding behaviours, and labelling practices may be misleading and do not support parents and caregivers to make the best-informed choices.

The [Food Regulation Standing Committee](#) (FRSC) is seeking to improve the nutritional composition, labelling and texture of commercial foods for infants and young children through actions in the Food Regulation System to better align this population's diets with [Australian](#) and [New Zealand](#) infant and toddler dietary guidance.

The Consumers Health Forum of Australia (CHF) is the national peak body representing the interests of Australian healthcare consumers and those with an interest in health consumer affairs, including health-based research. Our nearly 150 members reflect a broad spectrum of organisations including state-based consumer peaks, condition-specific groups, volunteer patient groups, professional associations, Primary Health Networks (PHNs) and the research community.

CHF is a supporter of the Food for Health Alliance, the leading policy and advocacy voice working to improve diets and prevent overweight and obesity in Australia, particularly for children. The Alliance and its Members have collaborated to develop evidence-based responses to the consultation questions that centre the needs of consumers and their health.

CHF is pleased to make this submission to the consultation and thanks the FRSC for the opportunity and the Food For Health Alliance for leading the development of the response.

Note that this consultation was administered as an online survey and this document has been adapted from the CHF submission to that survey.

CHF Responses to Consultation Questions

Q1- Are there additional studies on the consumption of commercial foods for infants and young children in Australia and New Zealand?

No.

Q2- Are there additional studies on the prevalence of iron deficiency in Australian children, including among Aboriginal and Torres Strait Islander children and children living in rural and/or remote areas and other groups, including vulnerable populations?

No.

Q3- Are there additional studies on the composition of commercial foods for infants and young children in Australia and New Zealand?

No.

Q4 – Are there additional studies on the textures of commercial foods for infants and young children in Australia and New Zealand?

No.

Q5 – Food manufacturers- what reformulation activities have you undertaken in the last 5 years related to commercial foods for infants and young children? What was the purpose the reformulation activity?

N/A

Q6 – Do you agree with the proposed objective of this work? If not, what is your proposed alternative?

Proposed Objective: "To improve the composition, labelling and texture of commercial foods for infants and young children to better align with the recommendations in the Australian and New Zealand infant and toddler feeding guidelines".

Yes we largely support the proposed objective of this work, noting however that rather than to “better align” the improvements to composition, labelling and texture of commercial foods for infants and young children should be to “ensure alignment” with the recommendations in the Australian and New Zealand infant and toddler feeding guidelines. We note further that the specific word ‘labelling’ does not capture all approaches used by industry to market products

(as discussed in the Consultation RIS) and recommend that the language should adequately reflect this by adding the word 'marketing' after the word labelling in the proposed objective.

We also note that the infant and toddler feeding guidelines in Australia and New Zealand offer limited guidance on commercial foods for young children, aside from the following points:

- “Special complementary foods or milks for toddlers are not required for healthy children” - Australian Infant Feeding Guidelines
- “Commercial baby foods are a convenient alternative to home-made baby food, but an over-reliance on these products may reduce the variety of flavours and textures in a baby’s diet” - Healthy Eating Guidelines for New Zealand babies and toddlers

In the absence of existing detailed guidance on commercial foods for infants and young children in the Australian and New Zealand feeding guidelines, we strongly recommend adopting international best practice, particularly the World Health Organization European Office’s Nutrition Profile and Promotion Model (NPPM), to guide reforms. With this context in mind, we recommend that reforms ensure that all commercial foods for infants and young children align with international best practice (NPPM) in addition to the general nature of guidance in the Australian and New Zealand infant and toddler feeding guidelines.

Q7 – Are there additional policy options that should be considered? Please provide rationale and the benefits and risks of your suggested option.

No.

We understand that concurrent to this project there is work occurring reviewing the Health Star Rating (HSR) system to improve the operation of that initiative and that in theory HSR ratings could be used to aid consumers in identifying appropriate food for their infants and young children.

While we agree that in theory that could be beneficial, we note that the HSR system is designed on the needs of adults who have significantly different nutritional needs to young infants. And as such a bespoke system separate to the main HSR ratings would likely need to be formulated and appropriately communicated to consumers.

Q8 – Are the risks and limitations associated with the status quo described appropriately?

No.

The risks and limitations outlined in the consultation paper touch on the risks of maintaining the status quo but fail to capture the severity of taking no action.

Currently, many commercial foods for infants and young children fail to support good health and development. These products do not meet international best practice for nutritional

content and fall short of international standards for labelling/promotion. Option 1 will allow this problematic situation to persist.

To protect our youngest Australians, comprehensive changes to the composition, labelling and texture of commercial foods for infants and young children are imperative. To be effective, these changes must be mandatory and compliance with them must be strictly monitored and enforced.

Q9a – Are the risks and limitations associated with Option 2 described appropriately?

No.

The risks and limitations associated with Option 2 do not reflect the severity of the outcomes of taking voluntary approaches.

We strongly advise against taking an approach where any success is entirely dependent on industry initiative. It is unrealistic to assume industry will take action that is in conflict with their fundamental objectives, as evidenced by the HSR system amongst other examples. See the following supporting evidence: "[Part of the Solution: Food Corporation Strategies for Regulatory Capture and Legitimacy](#)". The rights of children to nutritious food and health, and the rights of parents to receive information that is not misleading, should always take precedence over costs to industry.

We note there is little evidence, within Australia or internationally, that non-regulatory approaches to reformulation and/or labelling are effective. We strongly advise against testing the possibility (noted in the consultation paper) that '*smaller, and more targeted voluntary initiatives for specific foods or issues **may** have more success*' on one of the most vulnerable populations: infants and young children.

We note that while educational resources are important and necessary, they are not the solution in of themselves. Parents should be able to rely on the Government to ensure that foods available for infants and young children support children's optimal health, growth and nutrition, and are labelled and marketed responsibly. As noted in the consultation paper "*a regulatory approach supports parents and caregivers who purchase these foods to provide infants and young children with foods that better align with infant and toddler feeding guidelines.*" Education alone will not achieve this, nor can non-regulatory approaches.

As noted in the consultation paper, educational interventions have limited reach and may not benefit all populations – this is an unequitable solution, and research shows it would further disadvantage vulnerable populations. Conversely, a regulatory approach will ensure all consumers have access to safe and nutritional foods for their children and infants.

Additionally, to be effective education initiatives must be adequately funded and co-designed which is no certainty. We support education as a complementary measure to regulation that ensures foods for infants and toddlers support their health and nutrition, and are marketed and labelled responsibly. However, without specific Government funding for a comprehensive co-designed education campaign, including engaging with the most vulnerable populations, this will be of minimal impact.

We disagree with the statement in the consultation paper that “A broader range of issues could be incorporated into a non-regulatory approach compared to regulatory approaches ...” We believe only regulatory approaches can be used effectively to address all the composition, labelling, marketing and texture issues with foods for infants and young children. The question for unspecified, non-regulatory approaches is: what exactly are they and how will they be effective?

Finally, we note that the strengths outlined in the Consultation RIS for Option 2 are not *only* achievable under Option 2. Opportunities to work with industry “to increase knowledge of Australian and New Zealand infant and toddler feeding guidelines and infant nutrition requirements” and “for better dissemination of infant feeding guidelines” already exist under the status quo and are simply not taken at present. And can also be taken though pursuing the Option 3 regulatory approach.

Q9b – Are there particular approaches in this option that should be further considered?

No. We do not support any voluntary industry approaches because there is no evidence that voluntary solutions will have the impact that is necessary to ensure these foods provide good nutrition and are marketed and labelled responsibly (see our response to Question 9(a) for further details).

Q9c – Food manufacturers- How likely are you to be involved in a voluntary reformulation or labelling program? What would be a suitable time frame for this option to be implemented in your organisation?

N/A

We do note that while food manufacturers may indicate they would be theoretically involved in a voluntary program, previous programs (e.g. HFP reformulation program) have shown that few companies do ultimately participate. Leaving the success of the program up to the “goodwill” of industry will not ensure these products provide appropriate food nutrition and are marketed and labelled responsibly.

Q9d – What kinds of voluntary measures could be introduced to maximise industry uptake?

None.

We do not support any voluntary industry approaches as there is no evidence that voluntary solutions will have the impact that is necessary to ensure these foods provide good nutrition and are marketed and labelled responsibly (see our response to Question 9(a) for further details).

Q9e – What implementation issues need to be considered for this option?

We do not support any voluntary industry approaches as there is no evidence that voluntary solutions will have the impact that is necessary to ensure these foods provide good nutrition and are marketed and labelled responsibly (see our response to Question 9(a) for further details).

Q10a – Are the risks and limitations associated with Option 3 described appropriately?

No.

We note there is one significant additional risk: that regulations are enacted that fail to establish adequate limits for composition, labelling, marketing and texture, allowing Australian standards to continue falling short of international best practice and dietary guidelines. We recommend that the Government take decisive, swift and comprehensive action to overhaul the market for food for infants and young children to ensure alignment with international best practice and dietary guidelines.

The risks and limitations described imply that regulatory approaches are difficult and will take a long time. We disagree with this assumption- the timeline is ultimately determined by the government and will only be extended if the government allows it. The health of infants and young children should not be compromised to make the implementation period more acceptable to the industry. We strongly recommend that the implementation period for regulatory approaches is two years. This is consistent with other similar reforms:

- P1041 (Country-of-Origin Labelling) which shows precedent for this timeframe for labelling changes; and
- P242 (Food for special medical purposes), P1003 (Mandatory Iron Fortification) and P295 (Mandatory Fortification with Folic Acid) each of which shows precedent for this timeframe for compositional changes specifically targeted at vulnerable children.

We note further that industry constantly reformulates and repackages foods for infants and toddlers within this time frame for their own purposes. And that every three- year delay means an entire generation of infants and young children are exposed to commercial foods that do not support their health, growth and development

We also note that to the extent a regulatory implementation period should be longer than a non-regulatory one, regulatory initiatives *guarantee* changes within that period whereas non-regulatory approaches are unlikely to result in any significant changes (see our response to Question 9(a) above for further details).

We disagree that work to create relevant sub-categories is a limitation or barrier. Much of the work to sub-categorise products and prescribe detailed definitions and their specifications has been done by the World Health Organization and can be applied already. Analysis of Australian and New Zealand products against this model shows products in this market can be sub-categorised using this model and the definitions and specifications are relevant and applicable.

Finally, we disagree with the limitation regarding consumer understanding of labelling changes. Labelling changes would ensure product names are accurate and that these foods are labelled and marketed with greater transparency and honesty. This approach, compared to the status quo or non-regulatory options, would *reduce* the burden on consumers having to navigate complex, variable, or misleading labelling/claims; thereby lowering associated risks. Removing or reducing misleading claims from these foods would also eliminate the need for

consumers to interpret such claims and allow them to better make informed decisions. This would further simplify the consumer experience and enhance overall product transparency.

Q10b – Are there particular approaches in this option that should be further considered?

As noted in the consultation paper, most parents assume government regulates commercial foods for infants and young children to ensure products in this sector provide good nutrition. This is not necessarily the case. Regulatory approaches would ensure this assumption is true by ensuring products meet appropriate minimum standards for composition, labelling, marketing and texture. This would then mean parents and carers could truly rely on these products to support the health and development of their children.

In relation to the regulatory approaches noted in the consultation paper, we endorse the suggestions proposed by the Food for Health Alliance:

1. Composition Proposals

We strongly support the review and enhancement of composition requirements for commercial foods for infants and young children in line with the Food for Health Alliance. We note as follows in relation to the regulatory approaches noted in the Consultation RIS:

IRON

While we continue to support the minimum iron levels as set out in the Food Standards Code, we do not support the extension of minimum iron levels to further categories of foods targeted to infants and young children.

We appreciate the particular importance of iron in the diets of infants and toddlers, but minimum iron levels will only encourage fortification (and resulting marketing about the fortification) rather than genuine introduction of iron-rich whole foods (such as iron-rich animal foods or plant alternatives) in commercial foods for infants and young children. We continue to support the minimum iron levels as set out in the Food Standards Code.

The data available show that commercial foods are low in iron and although some young children may not be getting sufficient iron there is no population level data to show how this is impacting young children's health. In addition, dietary guideline advice on iron needs to be reconsidered as part of a comprehensive review of infant feeding guidelines which we recommend forms part of the Australian Dietary Guidelines review.

SUGAR

To address the sugar and sweetness of foods for babies and young children, a comprehensive regulatory approach is needed – which should be more than just maximum sugar content thresholds for sub-categories. We recommend:

- Prohibiting the use of added sugars (as defined in the Food Standards Code) in all foods for infants and young children.

- Prohibiting the use of ingredients extracted from fruit (as defined below) in all foods for infants and young children
 - Ingredients extracted from fruit: all fruit ingredients other than pureed fruit and whole, cut or chopped dried fruit, including but not limited to fruit juice, fruit paste, fruit gel, fruit powder, fruit pulp, concentrated fruit puree, a blend or combination of any two or more ingredients listed above (Note: this definition excludes concentrated fruit juice and deionized fruit juice as these are considered Added Sugars and would be prohibited under the Added Sugar prohibition above).
- Noting these ingredients extracted from fruit are all considered ‘free sugars’ under Public Health England’s definition, see: Swan GE, Powell NA, Knowles BL, Bush MT, Levy LB. A definition of free sugars for the UK. Public Health Nutrition. 2018;21(9):1636-1638. doi:10.1017/S136898001800085X
- Limiting the use of fruit (as defined below) to sweeten foods for infants and young children - we recommend using the NPPM guidelines which limit fruit in savoury foods, dairy products, cereal and snack foods.
 - Fruit: whole, dried, or pureed fruit (does not include any ‘ingredients extracted from fruit’).
- Prohibiting use of non-sugar sweeteners in foods for infants and young children.
 - This is important as limits on sugar, ingredients extracted from fruit and fruit may result in industry turning to alternative sources for sweetness.
- Non-sugar sweeteners as defined by the World Health Organization: Use of non-sugar sweeteners: WHO guideline. Geneva: World Health Organization; 2023. Licence: CC BY-NC-SA 3.0 IGO.).
- Prohibiting any drinks for infants and young children, other than water, unflavoured milk and those regulated by Standards 2.9.2 and 2.9.3 of the Food Standards Code.

To ensure foods that are high in total sugar are not marketed as suitable for infants and young children, we recommend a maximum limit for total sugar as a percentage of total energy and a maximum total sugar threshold for foods for infants and young children. We recommend following the World Health Organization guidelines for this requirement.

SODIUM

We strongly recommend the introduction of maximum sodium limits for foods for young children in line with international best practice as set out in the NPPM.

In addition to the above approaches noted in the consultation paper, we concur with the Food in Health Alliance that additional regulatory approaches under Option 3 need to be developed in regards to:

Snack foods for this vulnerable age group need to be addressed: The issues paper provided to Food Ministers in December 2023 identified that many products are marketed as “snack foods” whereas dietary guidance does not recommend discretionary foods as snack

foods for this age group. The introductory sentence to the consultation paper highlights why regulating these snack foods is necessary, stating that “*the nutritional quality of foods infants and young children eat is critical as they have high nutrient requirements (relative to their energy needs) to support growth and development.*” It is imperative that policy reforms address this.

Snack foods make up a significant portion of the foods marketed for infants and young children (35% of products in Australia as noted in reference 64 of the consultation paper) and as noted in the consultation paper high energy, low nutrient snack foods have seen significant growth in recent years.

Compositional limits for sugar and sodium will not be sufficient to ensure snack foods provide good nutrition for infants and young children. A proportion of snack foods on the market for infants and young children may not have excessive sugar and sodium (i.e. comply with all NPPM requirements); however, they are highly processed, high in refined flours, oils and flavourings and have little to no nutritional value and many are energy dense. These types of snack foods will likely flood the market if sugar and sodium are regulated without other protections in place.

In addition to the compositional and labelling requirements for all foods for infants and young children, we recommend that specific additional policy options to address snack foods are part of a package of reforms moving forward including:

- snack foods (defined as confectionery and snacks and finger foods in the NPPM) are not permitted to be marketed as suitable for infants as they are particularly vulnerable;
- upper energy density thresholds are set for snack foods for young children in line with the NPPM;
- regulating portion size;
- regulating what is added to these foods, for example oils, flavourings, additives and powders;
- ensuring snack foods are not fortified as this implies they form an essential part of the diet;
- overuse of refined flours.

Maximum saturated fat levels need to be set for foods for infants and young children and prohibition on the use of trans-fats in foods for infants and young children, as recommended in the NPPM. This is important as limits on sodium, sugar, ingredients extracted from fruit and fruit may lead industry to using alternative ingredients. Any increase in trans and/or saturated fats in foods for infants and young children would not be in their best interests.

Minimum total protein and protein weight requirements are set for meals. We recommend these align with NPPM guidelines. It should also be noted that protein sources in meals must be from whole foods, not protein fortification.

Maximum/minimum energy density limits also need to be set. The consultation paper outlined an issue with the energy density of commercial foods for infants and young children, but did not provide any options to address this problem. We recommend that as this work progresses, policy options should be included to address the energy density of these foods

and support using the energy density guidelines in the NPPM. These include maximum energy density limits for snack foods and minimum energy density thresholds for most other food categories to ensure they are nutritionally dense and do not contain excess water or stock.

Sweet flavour profile of these foods is addressed. The consultation paper outlined an issue with the overall sweet flavour profile of commercial foods for infants and young children but fails to provide any options to address this. We recommend including policy options to address the sweet flavour profile of these foods as this work progresses. Some of our recommendations for sugar and sweetness will go some way to addressing this (limiting fruit content in certain product categories for example, as in our response to this question above), but more work is needed to consider options, for example: limiting the fruit in fruit only and fruit and vegetable foods to two serves (40g); requiring mixed fruit and vegetable foods to be at least 50% vegetable; and prohibiting the marketing of dairy desserts, such as custards, to infants and young children.

Maximum serve size limits should be set. The consultation paper outlined an issue with the serving sizes of many commercial foods for infants and young children but fails to provide any options to address this. We recommend that policy options to address the serving size are included as this work progresses.

2. Labelling and Marketing Proposals

We strongly support the review and enhancement of labelling requirements for commercial foods for infants and young children in line with the Food for Health Alliance. We note as follows in relation to the regulatory approaches noted in the consultation paper:

Reviewing of the Nutrition Information Panel (NIP)

We do not support the declaration of iron content on the NIP, nor any other changes to the NIP, specifically for foods for infants and young children. For iron, see our response above. More generally, we believe that the information on the NIP should be useful and relevant for all ages. Noting that by the age of 12 months, existing Dietary Guidelines recommend young children should be eating family foods. We note also that Food Ministers in the Communique from their 25 July 2024 meeting announced a holistic review of the NIP and that any changes to the NIP are better undertaken as part of that broader piece of work

Review of Claim Permissions

We strongly support regulation to address issues with claims on foods for infants and young children. Given the critical importance of health, growth and development during this stage of life, as noted in the NPPM, the usual rules governing product labelling and promotion should not apply to foods for infants and young children. The consultation paper acknowledges that multiple claims on products have the potential to cause consumer confusion about the appropriateness of the product in the diets of infants and young children. This is supported by the growing body of research showing the impact of claims on parent and caregivers' perceptions, preferences and purchasing intentions.

The World Health Organization recommends no health, nutrition, or marketing claims on these foods (with limited exceptions), and we recommend this approach should be mandated in Australia and New Zealand.

In relation to specific categories of claims we note as follows:

- *Standard 1.2.7-13 – Health claims Division 5 of the Food Standards Code* criteria exist for making certain health claims on packaged foods. We note these criteria have been developed at a population level and do not take into consideration the specific nutritional needs of vulnerable infants and young children. We do not support the use of health claims on foods for infants and young children. As noted in the consultation paper, infant formula products are not permitted to carry health claims. We recommend this exception is extended to foods for infants and young children.
- *Standard 1.2.7-12 - Nutrition content claims regulated under Schedule 4-3 of the Food standards Code* criteria exist for making certain nutrition content claims on packaged foods. We note these criteria have been developed at a population level and do not take into consideration the specific nutritional needs and vulnerability of infants and young children. As noted in the consultation paper, infant formula products are not permitted to carry nutrition content claims. We recommend this exception also be extended to foods for infants and young children. In relation to specific nutrition content claims we note:
 - ‘No added sugar’ claims 91% of parents (as noted in the study referenced at 27 in the consultation paper) are influenced by ‘no added sugar’ claims. It is particularly important that this nutrient content claim is not permitted on foods for infants and young children, given the prevalence of the use of sweet ingredients in these foods.
 - *Standard 1.2.7-13 – Nutrition content claims about properties of food not regulated under Schedule 4-3 of the Food Standards Code* this standard allows products to make claims, simply saying a food contains or does not contain a certain property (for example wholegrains or preservatives) and the quantity of that property. Such claims mislead consumers, creating the perception that a product is healthier than it may be and diverting attention from other nutrition deficits of the product – for example ‘no artificial colours, flavours or preservatives’ as seen on a fruit melt made from concentrated fruit puree and with 59.5% sugar. These types of claims should not be permitted on food for infants and young children We note for example
 - *Free from ‘preservatives’, ‘flavours’, ‘colour’ claims:* these are the most commonly used claims on foods for infants and young children. Recent research has shown they are also the most influential. We strongly recommend that claims about what is not in a food cannot be used on foods for infants and young children.
 - *Allergen claims:* we strongly recommend that allergen labelling is only permitted as per the new requirements for the labelling of allergens in food that came into force on 25 February 2024 following Proposal P1044 – Plain English Allergen Labelling. These requirements ensure that caregivers can access allergen information when needed, and there is no reason for additional claims about allergens.

- *Marketing puffery - claims that are not regulated by the Food Standards Code at all*
A great many unregulated claims are used on foods for infants and young children. As noted in the paper referenced at 61 in the Consultation RIS, these 'unregulated claims' are more common than regulated ones. The claims vary in nature and cover a wide range of topics including health related ingredient claims (for example "no added preservatives"), child-specific messages (such as "first flavours", "simple tastes for tiny taste buds", "ideal finger food"), naturalness (for example "made with natural ingredients"), environmental (such as "BPA free"). Policy options to regulate some other claims should be considered, for example:
 - *Organic claims:* we recommend that organic claims are only permitted as described in the NPPM - within the ingredients list only (such as "organic carrots"). We note the same rule should apply to all descriptive claims, consistent with the NPPM. For example, 'wholegrain flour' in the ingredients list only and no claims such as 'made with wholegrains' elsewhere on the packaging.
 - *Texture claims:* we strongly recommend prohibiting claims about texture that imply idealism in smoother products (for example "smooth", "no bits/chunks", "easy-to-swallow texture that is great for helping your little one as they start to explore solid foods"), or a product's dissolvable nature (for example "melt in your mouth", "softens in mouths").

Reviewing Marketing Aspects

We support a review of marketing aspects of foods for young children, including the use of characters on packaging and provision of toys. We note an extensive published list of child-directed marketing features exists includes: branded characters or spokespersons; licensed characters; other characters or cartoons; celebrities; movie/sports tie-ins; games or activities on the package; coupons, contests & give-aways; toys & prizes.

We recommend that no child-directed marketing be permitted on foods for infants and young children. We recommend this should be part of the policy reforms to improve foods for infant and young children and not as part of the Food Regulatory System workplan work on reducing children's exposure to unhealthy food and drink marketing, or as part of the response to the feasibility study on options to restrict marketing of discretionary foods to children.

We also recommend that images of fruits and vegetables should not be permitted on packaging where fruits and vegetables are not in the product in their whole form or in their whole form do not make up a significant portion of the product.

Reviewing Naming Requirements

We support regulation to address issues with inaccurate and misleading names of foods for infants and young children. As noted in the consultation paper, this practice is widespread.

The World Health Organization recommends product name clarity whereby contents are listed in descending order and sweet tastes and high fruit content are not hidden. We recommend the introduction of regulation that mandates this recommendation for all foods for infants and young children.

We also recommend that fruits and vegetables should not be permitted in the name of foods where fruits and vegetables are not in the product in their whole form; or, if in their whole form they do not make up a significant portion of the product.

Pouch Products

We support regulatory approaches in relation to pouch products with spouts. Spouts facilitate inappropriate textures of food for most age groups, encourage overconsumption and do not support the oral motor development that occurs with consumption of foods with mixed textures. We recommend that pouches with spouts are only permitted to be marketed for infants between 6-9 months of age.

We support FRONT-OF-PACK statements on pouches with spouts for infants 6-9 months of age that the food should not be consumed by sucking from the package (spout); and should be decanted into a bowl or onto a spoon prior to consumption.

It is important that these statements are not buried on the back-of-pack but that it is a clear directive to caregivers on front-of-pack that these products should be consumed in the above manner.

Pouch products with spouts should not be marketed as suitable for children over 9 months of age.

We support a FRONT-OF-PACK statement that pouch products with spouts are not suitable for consumption for children over 9 months. It is important that this statement is not buried on the back-of-pack but that it is a clear directive to caregivers on front-of-pack that these products are not suitable for young children.

Other

In addition to the regulatory approaches set out in the Consultation RIS in relation to labelling, we also recommend:

- That section 2.9.2-7(2) of the Food Standards Code is amended to change '4 months' to '6 months'. This would ensure that no foods are permitted to be marketed as suitable for children under 6 months of age, consistent with international best practice as set out in the NPPM, infant feeding guidelines and dietary guidelines in both Australia and New Zealand. This should be supplemented with standards to ensure products do not encourage (either implicitly or explicitly) early introduction of foods (in line with NPPM recommendations).
- The consultation paper clearly sets out the Dietary Guidelines' recommendations in relation to the introduction of solids – foods should be introduced "from around 6 months".
- 15% of infant foods in Australia (as noted in reference 64 of the consultation paper) are marketed to infants younger than 6 months of age – this is inconsistent with dietary and infant feeding guidelines. That section 2.9.2-8(1)(a) is amended to be consistent with international best practice, as set out in the NPPM:

- That section 2.9.2-8(1)(a) is amended to require that the percentage of ingredients listed in that section (milk, eggs, cheese, fish, meat (including poultry), nuts or legumes) are required to be declared regardless of whether reference is made to that ingredient in the label; and include fruits, vegetables, cereals, water and stock in the list of ingredients in that section for which the percentage of that ingredient must be declared. This is consistent with international best practice, as set out in the NPPM.
- An additional labelling requirement that all foods for infants and young children carry relevant statements to protect and promote breastfeeding (in line with NPPM recommendations).

3. Texture

We strongly support the review and enhancement of texture requirements for commercial foods for infants and young children in line with the Food for Health Alliance. We note as follows in relation to the regulatory approaches noted in the Consultation RIS:

Including labelling information about the appropriateness of the texture of the food and a child's developmental stage- the Consultation RIS Consultation speaks generally about texture for oro-motor skills, but it fails to convey the importance of these skills and the fact that there is an ideal developmental window during which infants need to be exposed to complex textures. Nor does it go into detail about how inadequate exposure is associated with later risk of picky eating, lower intakes of fruit and vegetables later in childhood up to 7 years of age.

We recommend that foods for young children 9 months and above should be in packaging without a spout and that from 9 months of age all foods must be chewable and not of a dissolvable texture.

This is consistent with the Healthy Eating Guidelines for New Zealand Babies and Toddlers (0-2 years old) which state that prolonged use of pureed foods and delaying the introduction of lumpy textures beyond the age of 9 months is associated with feeding difficulties in older children and a lower intake of nutritious foods, such as vegetables and fruit. This would also facilitate a food supply that promotes mixed textures from 9 months of age in accordance with the Royal Children's Hospital's speech pathology guide to early eating experiences.

We note that pouch products without spouts are being sold to infants currently, demonstrating the viability of rip-top sachets in this sector of the market.

Q10c – Food manufacturers- please provide information on the impact of potential composition options, including cost estimates where available. What would be a suitable time frame for these options to be implemented in your organisation.

N/A.

However, as noted in Question 10(a), we do not agree with the assumption in the risks and limitations that there is potential for a long implementation period for Option 3. Industry is constantly reformulating and repacking foods for babies and young children. There are

numerous examples of industry reformulating and repacking their products within a two-year timeframe for their own purposes.

We recommend that the implementation period for regulatory approaches is two years. See our response to Question 10(a) for further details.

Q10d – What implementation issues need to be considered for these options?

N/A.

Q10e – Food manufacturers- how would the labelling options impact you (include cost estimates where available)? What would be a suitable time frame for these options to be implemented in your organisation.

N/A.

However, as noted in Question 10(a) we do not agree with the assumption in the risks and limitations that there is potential for a long implementation period for Option 3. Industry is constantly reformulating and repacking foods for babies and young children. There are numerous examples of industry reformulating and repacking their products within a two-year timeframe for their own purposes.

We recommend that the implementation period for regulatory approaches is two years. See our response to Question 10(e) for further details.

As noted in our response to Question 10(a) we strongly recommend that the implementation period for regulatory approaches is two years. This is consistent with:

- P1041 (Country-of-Origin Labelling) which shows precedent for this timeframe for labelling changes; and
- P242 (Food for special medical purposes), P1003 (Mandatory Iron Fortification) and P295 (Mandatory Fortification with Folic Acid) each of which shows precedent for this timeframe for compositional changes specifically targeted at vulnerable children.

We note again that industry are constantly reformulating and repacking foods for infants and young children within this time frame for their own purposes.

Any delay in implementation will allow the risks and limitations outlined in Option 1 to continue unabated, most significantly the long-term health and developmental impacts for children reliant on these foods.

Q10f – What implementation issues need to be considered for these options?

N/A.

Q11 – Do you agree with the analysis of how well the proposed options would achieve the proposed objective? If not, please describe why and provide references with your response.

No.

We disagree with the assessment made in Table 3 of the consultation paper that Option 2 is orange ('some potential to meet the objective') in relation to each component: composition, labelling, texture and feasibility. We recommend that this assessment is changed to red ('the option is unlikely to meet the objective') for each component as Option 2 is very unlikely to significantly change the current position and will therefore not achieve the proposed objective. We strongly disagree with the repeated but unjustified statement in the consultation paper that "*non-regulatory approaches may be better suited to some issues*". Please see our response to Questions 9(a)-(e) above for more detail.

We agree with the statement in the Consultation RIS that Option 3 "offers the potential for strong and widespread improvements to commercial foods for infants and young children across the industry" and note that if ALL proposed measures were mandated these would go some way to achieving the proposed objective. We support and recommend regulatory approaches to meeting the proposed objective.

However, significant gaps will still be left as the policy problem only singles out certain issues with the composition, labelling and texture of these foods and ignores others that are important (see our previous responses for details).

We strongly urge the Government to include all matters raised in our response to Question 10 in policy considerations going forward and to implement a comprehensive range of reforms to ensure that all commercial foods for infants and young children align with international best practice (NPPM) and follow the general nature of guidance in the Australian and New Zealand infant and toddler feeding guidelines.

Q12 – Which issues in this paper do you consider are more suitable to regulatory and non-regulatory approaches?

All issues in this paper are suitable for regulatory approaches. We do not consider any options suitable for non-regulatory approaches. Evidence has shown that non-regulatory approaches will drain resources without significant impact.

Q13a – Do you agree with the description of the possible benefits associated with the proposed options?

No,

We disagree that Option 2 would result in a community benefit of reducing the total sugar or improving the iron content of commercial foods for infants and young children. There is no

evidence that there would be widespread uptake of voluntary approaches, and such benefits are thus highly unlikely.

And while governments will benefit in the short-term from there being no costs associated with administering voluntary or regulatory changes under Option 1, these will be far outweighed by the costs of the health implications of infants and young children consuming these foods into the future. Similarly we strongly disagree that Option 2 will result in savings for the health system. Voluntary approaches are highly unlikely to result in widespread changes that would impact the health system's bottom line based on existing evidence.

Q13b – Are there additional benefits associated with all or some of the proposed options that have not been captured? Please provide data and references for your response.

Option 3 has the significant benefit of being the only option that would guarantee improvements to foods for infants and young children.

Other additional benefits of Option 3 to the community, assuming comprehensive reforms were implemented, would be:

- Caregivers could rely on commercial foods for infants and young children to support the growth and development of their children.
- Caregivers would no longer be misled or confused by labelling and marketing of foods for infants and young children.
 - Food for infants and young children would no longer contribute to tooth decay, oro-motor development issues and health issues.

Under Option 3 regulating foods to align with international best practice will support industry's reputation and export capacity into the future as this will align their products with international expectations as this market evolves. It will also support a level-playing field domestically when competing against imports.

Q14a – Do you agree with the assessment of the costs associated with the proposed options?

No.

Regarding costs to the community and government, while the consultation paper notes that *“there is a growing body of evidence demonstrating that early nutrition and lifestyle have long-term effects on later health and disease outcomes”*, we believe it does not adequately describe the enormous costs to governments and communities of the health and developmental impacts that will result if either Options 1 (Status Quo) or Option 2 (non-regulatory approach) are taken. We note that while governments will have short-term costs under Option 3 to change, administer and enforce regulations, these will be far outweighed by the cost savings of improved health and developmental outcomes of infants and young children consuming these foods into the future.

Regarding costs to industry, we agree there will be no costs to industry under Option 1 but also expect there to be minimal and variable costs under Option 2 as it is highly unlikely that industry at large will implement any voluntary approaches in any significant manner.

Q14b – Are there additional costs associated with all or some of the proposed options that have not been captured? Please provide data and explain your rationale and your calculations.

We believe that there are additional costs to the community not captured in the Consultation RIS under Options 1 and 2. Firstly that consumers and caregivers will not rely on commercial foods for infants and young children to support the growth and development of their children. Secondly that consumers and caregivers will continue to be misled and confused by inconsistent labelling and marketing on foods for infants and young children.

Q15- What do you consider to be the preferred policy option(s) to recommend to Food Ministers? Please provide your rationale for your preference.

Option 3- Regulatory approach

Please see our responses to previous questions for further details.

Q16 – Please provide any other information on costs, timeframes, and feasibility for the options discussed above.

N/A

Q17 – Please provide any other comments or points for consideration that may not have been addressed in this document.

Swift comprehensive regulatory action is needed. As noted in the consultation paper "Government action on this issue is important to improve health outcomes for Australian and New Zealand children and to better align commercial foods for infants and young children with current guidelines and meet the expectations of parents, guardians and carers".

This requires a comprehensive suite of regulatory approaches to change the composition, labelling, marketing and texture of foods for infants and young children. The Statement of the Problem and the proposed objective identified in the Consultation paper have driven the approaches that have been put forward for consideration, and while we agree with each of the issues raised in the Statement of the Problem, it does not cover all the issues with foods for infants and young children. See our response to Question 10, specifically our recommendations in addition to the composition, labelling and texture elements flagged for regulatory approaches under Option 3.

To protect our youngest Australians, comprehensive changes to the composition, labelling, marketing and texture of commercial foods for infants and young children are imperative. To be effective, policies must be mandatory and compliance with them must be strictly monitored and enforced.

PRODUCTS IN SCOPE

We strongly support the 'products in scope' for this work as detailed on page 5 of the consultation paper. Given the subjective nature of some of this classification, we recommend that any products for older children are clearly labelled as suitable from 4 years of age (4years+ age on the front-of-pack) in order for this classification to be effective and to clearly distinguish foods for infants and young children from other commercially available foods for older children. We note this is international best practice as set out in the NPPM.

We note that toddler milks are specifically out of scope for this consultation. These drinks are not necessary for young children and are of significant concern. Heavily marketed as a staple part of young children's diets, these drinks are highly processed, high in sugar and displace whole foods. We note Food Ministers' concern with these drinks, as noted in the Food Ministers Meeting Communique – 25 July 2024, and strongly support their referral to the Food Regulation Standing Committee for these drinks to be considered in more detail. We strongly recommend that consideration is given not only to the nutritional content of these drinks but also to the manner in which they are promoted and marketed. As noted in the consultation paper, infant formula products are not permitted to carry health and nutrition content claims. We recommend this exception is extended to toddler milks.

HEALTH STAR RATING SYSTEM

We note the consultation paper's summary of the HSR System. Infant foods are currently excluded from carrying HSR (captured by Standard 2.9.2 of the Food Standards Code), but foods for young children 12 months and over may carry it. As noted in the consultation paper, HSR is only displayed on 23% of foods for young children because HSR is currently voluntary (mostly on yoghurts that do not have explicit ages on packaging).

We support the current exclusion of infant foods from the HSR System and recommend that this is extended to foods for young children. As noted in the consultation paper "there are challenges that mean the HSR is not suitable for foods for infants and young children."

Food Ministers have commenced a process for considering a mandatory HSR. A mandatory HSR could have potential to provide parents with useful information on foods for infants and young children, however, specific consideration to ensure the HSR algorithm is strengthened and validated across this category specifically would need to be undertaken.

ULTRA-PROCESSING

We note the consultation paper does not address the rapidly growing evidence on the harms of ultra-processed foods, with our concern centred on the significant share of these foods in the diets of infants and young children. As noted in the studies referenced as numbers 48 and 61 in the consultation paper, in Australia ultra-processed and discretionary foods contribute to

close to 50% of the total dietary intake of young children and 85% of commercial foods for young children in Australia are ultra-processed. In New Zealand, ultra-processed foods are estimated to contribute nearly half the calories in the diets of pre-schoolers (aged 12-60 months). Rapidly growing evidence shows diets high in ultra-processed foods are associated with adverse metabolic and chronic disease outcomes, including mental ill health. Mechanisms explaining these impacts include not only the poor nutritional quality of many ultra-processed diets, but also disruption of appetite regulation, negative impact on gut microbiota, promotion of inflammation and oxidative stress, and exposure to endocrine disruptors from contact plastic packaging. It is important that work to improve foods for infants and young children considers this evidence and shifts the market away from ultra-processed options to foods that are aligned with the dietary guidelines –minimally processed whole foods.

WIDER CONTEXT OF EARLY CHILDHOOD NUTRITION

We note the wider context of early childhood nutrition within which commercial foods for infants and young children exist and the additional work that is needed to support improvements to young children’s diets and nutrition. We recommend Government fund and support:

- regular extensive infant and young child feeding and dietary surveys, including biomarkers. We note that consistent methodology and questions must be used so that survey data can be compared over time and flexibility must be built into the surveys to enable follow up questioning
- the development of specific updated dietary guidelines for infants and young children as part of the review of the Australian Dietary Guidelines, as they are doing for older Australians.
- the development and distribution of resources to support infant and young child feeding like the Grow&Go Toolbox.
- adequate parental leave.