



Aspirations for the food regulatory system

This submission is made 22/01/2021 on behalf of the Food Intolerance Network, which consists of 16,113 current members (verify here <https://www.facebook.com/groups/128458328536/members>), mostly in Australia and New Zealand but with members in USA, UK, EU, Canada and several other countries and includes dietitians and other health professionals. The Network provides independent information about the effects of food on behaviour, health and learning in both children and adults through www.fedup.com.au which has had more than 12 million visitors.

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1. What other key challenges and opportunities are facing the food system?

The primary challenge is one of **trust and confidence in government policies and processes and in industry action**. This trust has been eroded by current practices. Many consumers conclude, with good evidence, that the present food system is dishonest and does not serve the public interest. This challenge is not presently explicit and must be included in the challenges listed in the consultation paper.

There is profound market failure in that food sellers often seek to pass off as wholesome and fresh food which is inferior, cheap and not fresh. Consumers are easily misled as a result of disinformation and so are reliant on an even-handed and independent authority with the power to make, monitor and enforce regulations, but flaws in the current food system make it widely mistrusted. With increasingly sophisticated forms of adulteration, with a globalised food supply run by multinational corporations, and with significant changes in consumer food preferences, patterns and expectations, the need has never been greater to have sound, secure and science-based technical regulation that commands the trust of all stakeholders.

Multiple scientific surveys show that regulators and industry do NOT enjoy a high degree of consumer confidence, with levels of mistrust around 75% [@A1](#). To an increasing extent the ability of consumers to make informed decisions has been eroded by food lawyers who game the current food regulatory system for the global food industry [@A2](#). Therefore a new approach is needed.

While the consultation paper wants a system that is “strong, agile and responsive”, as customers we see the current system as strongly favouring industry, unresponsive to consumers, clumsy rather than agile, and almost totally insensitive to public interests. This needs serious change if it is to be trusted.

The laughable inconsistencies in enforcement of current regulations and the bouncing of issues between regulatory agencies are also challenges that need to be acknowledged as part of re-establishing trust. To provide a frustrating example of the current system, if a consumer wishes to lodge some sort of complaint about a food then it is often required to be lodged not where the food is purchased, but where it is manufactured. Some States do not accept complaints from consumers out-of-state. In some States enforcement is then left to a local council without any expertise to even understand the problem, let alone the powers to address it. Appeals to a consumer body like the ACCC may then be referred to FSANZ and back again.... No wonder many consumers consider that the present split between approval of food standards at the Commonwealth level and enforcement at the State and even Local Government level has become unworkable with the national and international food industry out of control.

As consumers and customers, we want a trusted approach to food policy and regulation that recognises the breadth of food integrity issues (safety in its broadest sense, food security, food sustainability, personal and community health and nutrition, competent enforcement of standards, etc). This new approach must provide a central core to manage our food affairs, rather than the present Byzantine and fragmented system.

2. Do you agree that the focus of reforms should be on ensuring the system is set up to support interface management across regulatory systems, enables collaborative risk assessment and triage of issues and provides a range of (regulatory and non-regulatory) tools to support the system’s objectives and empower consumers and industry?

The Overarching Strategic Statement (OSS) agreed by Ministers in 2017 provides a very clear and useful statement of food system objectives which we support as consumers.

But we do not agree that “interface management” should be the focus of reforms, while agreeing that collaborative risk assessment (which already happens) is useful and that prioritising of issues is essential within resource constraints.

Looked at logically, a system set up from within existing bodies to “support interface management” requires a team within each body to manage each interface. This will inefficiently multiply the already Byzantine arrangements of forums, Standing and Ministerial councils, committees, sub-committees, centres, agreements, treaties, criteria and so-on that have arisen by happenstance to meet emerging issues.

In addition, focussing on interfaces does not require agencies to necessarily change their internal habits (although it might have that effect in time). Bureaucratic inertia is a real force.

A potential solution is to embrace the broader social responsibilities for public health and wellbeing, food security, sustainability and trade within a new structure of a National Food Authority / Australian Food Council, with legislative changes that support the public interest.

A primary issue remains in the often narrow definition of health and safety adopted by agencies. For people with food intolerance, there are many chronic and serious symptoms not presently taken seriously as part of food regulation [@A3](#). Note however that we strongly support the inclusion of long-term health and wellbeing through nutrition as a core objective given the immense costs to society of failing to take a comprehensive viewpoint, particularly with obesity.

The second issue is the extent to which the objectives are NOT realised in practice. To focus thinking on some current practicalities, just how will any intended reforms address these concrete issues?

- many people seek to avoid the propionate bread preservatives 280-283 which have recently been linked to ASD-type disruption of brain cells and are currently being researched as a possible cause for the thousand-fold increase in autism diagnoses since the 1950s. Manufacturers have responded not by eliminating them but by hiding them as 11 ingredients like “cultured dextrose” or “fermented wheat flour” while advertising “no artificial preservatives”. ACCC and FSANZ have demonstrated no interest in this issue [@A4](#). This is part of the food industry’s “Clean Label” strategy but from a consumer point of view these are not “Clean Foods”.
- many people seek to avoid the flavour enhancer MSG 621. We have identified 129 names under which the identical free glutamate chemical is added to foods with the intention to mislead by also saying “no added MSG” [@A4](#). ACCC and FSANZ have bounced this issue for years with no resolution, even though a substantial number of people are sensitive to the substance and can suffer significant adverse reactions that may require medical intervention. Yet a country such as India has solved this issue comprehensively.
- a complaint was recently lodged with the NSW Food Authority about a product labelled “Wasabi Paste” which contains NO wasabi but is horseradish paste with artificial green colour 102+133. The response is that it is “not a breach of laws that the NSW Food Authority enforces as the ingredients are listed and properly described” ... try NSW Fair Trading or the ACCC. Apparently you can misrepresent and sell jam as apricot so long as the ingredient label shows that it is apple!

3. Is there anything missing from these aspirations and high level actions?

The re-establishment of trust needs to be made the explicit top priority, as detailed in 1 above.

We strongly support the aspiration to “Better involve stakeholders in identifying priorities and developing integrated strategies”. But the resulting high level action is rather undercut by the presumption that the point of such engagement is to engage consumers in delivering key (government) messages! We had hoped for and in fact require our perspectives to be heard as well. Some rewording, to say the very least, is required.

Here is a statement developed by Food Intolerance Network members about what consumers expect of government regulation of food is, as a draft guide. The aspirations and high level actions match them fairly well:

- a central unit to develop national food policy, including that for food security and two-way trade
- strategic direction and funding of food research in all aspects including safety for consumers, not limited to the reduction in non-communicable food-related illnesses
- centrally coordinated education for consumers and industry on food and health
- leadership and responsibility for food-related public health objectives, including food fraud and crime
- development and approval of food standards
- implementation and enforcement of food standards nationally and for trade
- a trusted system to advise, survey and monitor achievement of policy objectives.

4. Are there any aspirations or high level actions that you disagree with and why?

The danger in the present list of carefully considered reforms is that they will be implemented to varying degrees and perhaps grudgingly within existing agencies and arrangements without causing the cultural change required to truly meet the aspirations evident in the Overarching Strategic Statement (OSS).

A more ambitious and ultimately effective solution would be to embrace the broader social responsibilities for public health, food security, sustainability and trade within a new structure of a National Food Authority / Australian Food Council with legislative changes that support public interest.

You might find useful this very recent and comprehensive document from the Commission for the Human Future [@A5](#)

“Yet, despite the importance, complexity and cost of food policy, the Federal Government does not have a strategic, coordinated or integrated approach to governing the food system. This major gap in governance and policy-making is causing inadequate and often contradictory program implementation across the Commonwealth, industry and society. The food system is strongly geared toward industry growth and export opportunities, with much less consideration for health, environmental sustainability and human welfare.”

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confodnet@ozemail.com.au www.fedup.com.au The Food Intolerance Network provides independent information about the effects of food on behaviour, health and learning in both children and adults, and support for families using a low-chemical elimination diet free of additives, low in salicylates, amines and flavour enhancers (FAILSAFE) for health, behaviour and learning problems. ABN 72 705 112 854

Aspirations ANNEX

@A1 Consumer confidence

There are several surveys on consumer confidence in food regulation, ranging from a selected audience of 648 people in 2008 where 96% agreed that “food additives should be better tested for their effects before they are approved” through a huge and sound survey of 100,000 people in 2008 where 73% agreed that “I am concerned that food authorities are not doing enough to regulate what food manufacturers can and can’t put in the foods”.

Food ranked as highest concern for consumers in Consumers Federation of Australia (CFA) survey of 591 people in 2013 where 75% of respondents identified misleading information about food production as a “very important” issue.

But the clearest picture of consumer lack of confidence comes from two surveys run by FSANZ itself which show that the situation has remained unacceptable over the past twelve years:

- FSANZ Consumer Attitudes Survey in 2008 of 2,000 people showed that 61% of consumers lacked confidence in organisations providing regulation and monitoring of the food supply.
- FSANZ Food Labelling Use and Understanding in 2016 of 2,400 people showed that 33% of consumers disagreed when asked “Generally speaking I trust the information on food labels”.

Overall, consumers clearly say that they do not have a high degree of confidence in the regulator or in the information being provided under current regulation.

(1) Survey of 648 people at talks on food intolerance <http://www.fedup.com.au/fedup-newsletters/2008/failsafe57-july-september-2008#research>

(2) The Real Food Trend by Meat & Livestock Australia 2008
<http://www.fedup.com.au/images/stories/TheRealFoodtrend.pdf>

(3) CFA survey 2013 <http://consumersfederation.org.au/consumers-rate-food-energy-and-security-online-as-biggest-concerns-in-cfa-survey/>

(4) FSANZ Consumer Attitudes 2008
<https://www.foodstandards.gov.au/publications/documents/Consumer%20Attitudes%20Survey.pdf>

(5) FSANZ Food Labelling Use and Understanding 2016
<http://www.foodstandards.gov.au/publications/Pages/consumerlabelsurvey2015.aspx> and
<http://www.fedup.com.au/news/blog/one-third-mistrust-food-labels-in-australia>

@A2 Seminars on “gaming” the Food Standards Code

As an example of how the food industry is running rings around the current Food Standards Code, lawyers are running multiple sold-out intensive workshops (<http://www.foodlegal.com.au/events>) to help the food industry simplify their long ingredients list, leave ingredients off the label, refine whether an additive is “natural” or “not artificial”, redefine “nasties” as an (undeclared) processing aid, use the 5% rule to advantage, find ways to not declare Genetically Modified ingredients and how

to achieve a clean label without breaching the Australian Consumer Law. FSANZ staff members present at these seminars. The Food Intolerance Network paid for a member to attend one of these workshops and it is clear that consumers are being intentionally misled and denied realistic choice.

It helps the food industry that there is a bureaucratic standoff between FSANZ and the Australian Competition and Consumer Commission (ACCC). If a consumer lodges a complaint with ACCC they can say that "it's a label issue, talk to FSANZ", who say in turn "that's a consumer issue, talk to ACCC"....

(8) Food industry "gaming" of the Act <http://www.fedup.com.au/news/blog/how-the-food-industry-games-food-regulation>

(9) ACCC and labelling <http://www.fedup.com.au/news/blog/poor-labelling-of-food-products-submission-made-to-the-review-on-australian-consumer-law> and <http://www.fedup.com.au/images/stories/FSANZ2011a.pdf>

@A3 Known symptoms of food intolerance

Airways: asthma, stuffy blocked or runny nose/ nasal polyps, frequent nose bleeds, catarrh, chronic throat-clearing, sinusitis, frequent ear infections, frequent tonsillitis, frequent colds and flu, symptoms of Samter's Triad, hayfever, allergic rhinitis

Skin: eczema, urticaria (hives), cradlecap, other skin rashes, angioedema (swollen lips, eyes, tongue), geographic tongue, pruritis (itching), rosaceae, allergic shiners (dark circles under eyes), pallor (pale skin), flushing, excessive sweating, body odour, sore vagina in children, alopecia (patchy baldness)

Digestive system: irritable bowel symptoms (IBS), dysphagia (difficulty swallowing), recurrent mouth ulcers, indigestion, nausea, bad breath, vomiting, diarrhea, stomach ache, bloating, reflux in babies, adults, constipation, colic in babies, adults, sluggish bowel syndrome (feeling of "more to come"), encopresis, soiling (sneaky poos), dairy intolerance, gluten and wheat intolerance, eating disorders (ED), anorexia nervosa, bulimia nervosa, binge eating disorder (BED)

Bladder: bedwetting, daytime incontinence, urinary urgency, recurrent inflammation (cystitis)

Skeletal: growing pains, gout, arthritis, joint pain, arthralgia

Eyes: nystagmus (involuntary movement), blurred vision

Muscles: low muscle tone, myalgia (muscle pain), tics (involuntary movement),

tremor, leg 'jiggling',

Heart: rapid heart beat, heart palpitations, cardiac arrhythmias, pseudo heart attack (feeling of impending doom, chest pressure, pain down arm), tachycardia (fast heart beat), angina-type pain, HHT

Central nervous system: headaches or migraines, unexplained tiredness, chronic fatigue, feeling 'hung-over', confusion, dizziness, agitation, tinnitus (noises in ear), hyperacusis, auditory sensory processing disorder (ASPD), paraesthesia (pins and needles), dysaesthesia (numbness), hypoglycemia, salicylate-induced hypoglycemia, epileptic seizures, fits, sensory symptoms of multiple sclerosis, scents and perfume sensitivity, symptoms of lupus

Anxiety: panic attacks, depression, obsessive ruminations (repetitively focusing on bad feelings and experiences from the past), self-harm, suicidal thoughts, actions, teeth grinding (bruxism)

Impaired memory: vague or forgetful, unable to concentrate, won't persevere, unmotivated, disorganised, easily distracted, difficulty reading and writing

Speech: loud voice (no volume control), speech hard to understand, speech delay, selective mutism, stuttering, repetitive noises, talks too much (empty chatter)

Coordination: poor handwriting, poor coordination, frequent accidents, vertigo

Sleep: difficulty falling asleep, restless legs syndrome (RLS), persistent night waking, insomnia, nightmares/night terrors/sleepwalking, sleepless babies, sleep apnoea

Mood: brain snaps, mood swings, premenstrual tension, grizzly or unhappy, cries easily or often, irritable, uncooperative

Oppositional defiance: ODD, loses temper, argumentative, refuses requests, defies rules, deliberately annoys others, blames others for own mistakes, touchy, easily annoyed, angry, resentful

Other behaviour: ADHD, ADD, autism, Aspergers, inattentive, easily bored, unmotivated, 'unable to entertain himself', restless, fidgety or overactive, head banging, hyperactivity, fights with siblings, difficulty making friends, destructive, aggressive, unreasonable, tantrums, demanding, never satisfied, disruptive, discipline is ineffective, pervasive development disorder (PDD)

See relevant factsheets at www.fedup.com.au

@A4 Adding additives as ingredients to mislead consumers

Propionates (280-283) can be shown as an **ingredient** called cultured OR fermented wheat, flour, rice, whey or dextrose, then the claim can be made that there is “No artificial preservative”. That means there are 10 ways to hide propionates so far. Even "whey powder" was believed to be a cultured form to judge by a child's reactions, so that makes 11 ways and counting.

<https://www.fedup.com.au/news/blog/caution-cultured-dextrose>

How can I legally add MSG (without saying MSG on the label)? Let me count the ways...129!! These appear on the Ingredients Panel as **ingredients**, not flavour enhancers or numbers.

<https://www.fedup.com.au/news/blog/129-ways-to-add-msg-and-fool-consumers>

India's effective response <https://www.fedup.com.au/news/blog/what-is-msg>

FSANZ views can be seen here <https://www.fedup.com.au/images/stories/FSANZ2018a.pdf>

@A5 Commission for the Human Future

<https://humanfuture.net/>

The need for strategic food policy in Australia: Governing for a healthy, sustainable, economically viable and resilient food system <https://humanfuture.net/node/112>

<https://humanfuture.net/sites/default/files/The%20Need%20for%20Strategic%20Food%20Policy%20in%20Australia.pdf>

“A new ... approach to food policy would allow Australia to better manage [food's] interconnected, and often conflicting, interests while safeguarding the country's most valuable assets – its people, environment and economy. It would protect the security of over one million jobs and grow the value of our \$330bn food value chain, including the \$69bn of agricultural and aquaculture products. It would help find new opportunities to increase jobs and reduce the budget in a difficult economic and fiscal context. At the same time, it would help reduce the economic burden – at least \$87bn a year – in health and environmental harm from food production and consumption. And it would ensure that, in times of emergency or crisis, Australian food supplies are secure and resilient.

“Our diet is taking a growing toll on the health of individual Australians. About two thirds of Australian adults are either overweight or living with obesity, as a direct result of the food they eat. This leads to shorter life spans and is a driving force behind 22 high-cost diseases, including diabetes, asthma, cardiovascular disease, musculoskeletal conditions, kidney disease, dementia and various cancers. If current trends continue, by 2028, 8.9m Australians will be living with obesity.

“Based on the amount of funding the government provides for medical services, diet related diseases are probably costing the budget at least \$4bn annually. Meanwhile, food-related policies and programs absorb billions of dollars in government spending, grants and loans.

“There is no central authority, legislation or bureaucratic structure for Australia’s food system. Food policy sits across legislation on agriculture, fisheries, water, animal welfare, environmental protection, and consumer protection. And the system sits within no single ministerial portfolio. Instead, food-related policy frameworks are scattered across at least 14 government departments and agencies, and are not fully coordinated ... amplified by each state’s own laws, regulations and bureaucratic structures”.