

SUBMISSION – January 2014

Submission to

Food Standards Australia New Zealand

in response to:

Consultation Paper – Labelling Review
Recommendation 17: Per serving
declarations in the nutrition information
panel

January 2014

Introduction

I am an **independent consultant** who has worked in the food industry for well over 30 years, the last 15 years of which have been involved with food labelling, regulatory requirements, dietary impact of foods across a number of sectors in the food industry. I have also been involved with food industry organisations which have addressed issues surrounding labelling.

The Issues

The paper is not particularly clear about the issues to be addressed, but they appear to be the following:

- There is a finite amount of space on a label for providing information to consumers and the Forum is making a suggestion about one way of addressing this is to remove “per serving” information.
- Consumers find the declaration of nutrients per serving and percentage daily intake values confusing.
- The topic of standardised serve sizes was raised and discounted.
- Removing “per serving” information will simplify requirements for the mandatory nutrition information panel (NIP).
- Removing the “per serving” information will “reduce the regulatory burden on industry”.

Label Space

It is difficult to get all the required information onto a small label. It is possible to do so if the font is made small enough, but then we run into the issue of legibility. The current regulations are not very specific about legibility other than to require the information to be legible. To whom should the information be legible? People have all sorts of vision issues, so there will always be someone for who the label is not legible. If the minimum font size is mandated (and this does not necessarily dictate legibility) then there would probably be more instances of space problems. **Legibility of information on labels is an issue which should be addressed for the benefit of consumers.**

If we look at the Panel itself, there is opportunity to create space. Many providers already abbreviate the information required by Code 1.2.8 to be in the header of each column of the NIP in order to reduce the width of the columns and thereby the overall width of the Panel. The rewording of the Code to allow for alternate wording both in the column headers and the supporting wording as long as the intent is the same would remove a source of contention and provide opportunities for others to make the same improvement.

Permitting flexibility of wording will allow some space saving.

Both personally and in the organisations I have been associated with, we have used the “per serve” information on pack for dietary management, for comparing similar products, for checking regulatory compliance, and for preparing Front-of-Pack labelling. The “per serve” information is most useful for single serve portions and packages of unitised food. By unitised food I mean either a prepared meal designed to be shared by a limited number of people, or the food is in discreet pieces of which less than, say, 5 constitute a serve, i.e. the

size and purpose of the food piece(s) are such that the serve size is well defined by the way it is presented, e.g. where two biscuits may be a serve. For these unitised foods, because the serve size is readily presented, the “per serve” nutrition information will correspond and is therefore of direct value to those using the data. For example, the actual amounts of the various nutrients delivered by two muesli bars can be compared for dietary contribution easily even if they are different sizes. For bulk materials, on the other hand, the serve size is not so readily utilised, and hence the data per serve should be calculated afresh using the actual serve size from the “per 100g/100mL” to be relevant. Thus with unitised foods the “per serve” information is both helpful and useful while for bulk materials it is theoretical at best. **“Per serve” information should therefore be kept for the unitised products, but can be removed for the bulk products if claims are not made without loss of consumer or regulatory authorities.**

If the lack of space on labels is the key issue, then then all of the information requirements should be considered together.

Consumer confusion.

A number of reports have suggested that consumers find the nutrition information panel confusing, without really explaining why. Whilst I haven’t had the luxury of being able to do a formal survey, informal surveys suggest that people who require information from labels for health reasons are quickly able to learn how to interpret them for their particular benefit. This suggests that **improving the education of the consumer might be a better approach than trying to simplify the information.** Once the data is explained and people work through some examples the concepts are not too difficult to grasp.

Beware over-simplification. The danger with simplification is that it leads to half-truths and the consumer can easily walk away with a misconception which both FSANZ and industry have to deal with. We have enough of those to deal with already. An example of a current issue is that of sodium. Sodium is obligatory but not potassium unless a claim is made about sodium. Potassium for many sensitive individuals helps them manage sodium and hence a product which contains potassium with a higher sodium content may have less impact on a person’s salt imbalance than one with lower sodium but no potassium. One of the simpler ways of reducing sodium in a food product is to replace some with potassium chloride. FSANZ could try argue that it is up to the manufacturer to point this out, but there has been a negative reaction against low salt (ie low sodium chloride) products so many manufacturers are being quiet about their moves to do “the right thing” for fear of losing sales. The sodium/potassium story is complex (and even here still simplified too much) but it does show that simplification can be misleading. There are many other examples.

Standard Serving Sizes

Attempts to standardise serving sizes are always going to be frustrating because they can be so misleading. Cream cheese can be used as a butter alternative, a cheese per se, or a dessert (for instance with added fruit). In each case the serve size is different. To lock a manufacturer presenting the information relative to one usage only is to limit experimentation and innovation. Constraining serve sizes can also cause difficulties when standardised packaging has to be used for products of different densities and therefore causing compromises with either the number of servings or the serve size, both of which could end up being different to the way the customer uses the products. Usages also change,

and if there is not the opportunity to change the serve size accordingly, the credibility of the industry is called into question.

The combination of nutrition information using only standard serve sizes, and the strange rounding rules which are required to be used, make it very difficult to accurately compare products. Having tried to produce labels for American products so that they can be sold in Australia always requires going back to the manufacturer for the information as it cannot be reliably calculated from what is on the pack.

For bulk foods such as breakfast cereals and sliced bread, a serve size is not particularly helpful. People take different serve sizes of these foods and add others so that a dietitian may find this information useful, but they are also likely to have this information on a database which enables them to manipulate the ratios or serve sizes as they see fit.

Standard serve sizes bring more confusion rather than simplifying the situation, and therefore should not be entertained.

Simplification

It has been suggested that “the recommendation to remove per serving information aims to simplify requirements for the mandatory nutrition panel”. It is not clear that removal of the information will go any way towards simplification, whatever that means. Does it mean that the panel itself will be simpler or that manufacturers will not need to put in so much effort preparing the panel. It will be a simpler panel, but manufacturers need to go through the same processes whether the panel is there or not. It does not mean that manufacturers will not have to calculate the per serve information as they will normally require to check for possible claims, but that set of calculations is easy as most companies use software to calculate the entire panel once the per 100g/100mL information is known. Although limited in its usefulness, even the FSANZ nutrition calculator provides per serve information. The better software ensures the calculations are accurate, that nutrients other than the standard ones on the basic panel are taken into consideration, that the correct rounding rules are applied, that maximum and minimum claims are not breached, and that %DI or %RDI are calculated, and some even indicate which claims can be made. **Removal of the “per serve” information may simplify the panel but it does not simplify the work that needs to go into preparing a label.**

Removing the “Regulatory Burden”

The term “Regulatory Burden” seems to be term which has not been defined anywhere. It would be beneficial if this term could be defined so that it could then be specifically addressed. If it applies to the work associated with the preparation of Nutrition Information Panels for products, then as the previous section has shown that removal of the “per serve” information makes no difference to the amount of work at all, therefore this is a specious argument. The “burden” here is obtaining the correct “per 100g/100mL” information in the first place, especially for SME’s, and keeping it maintained throughout the recipe changes necessitated by changing regulatory requirements, changing availability of raw materials, and necessary product improvements. **There is no change in the effort required, so there is no change in the “Regulatory Burden”.** This “Regulatory Burden”, if it exists with this work, cannot be too onerous as many companies are adding in %DI and %RDI information voluntarily in order to put some of this information on front of pack.

It is a recommendation that FSANZ investigate just what the regulatory burdens are before making statements as in this paper.

Responses to Specific Questions

Q1 *How do you or your organisation use per serving information in the nutrition information panel on food labels?*

The information is used to compare the intake of nutrients per serving on various similar products but with different unit weights which are all considered to be single serves, and to utilise this in calculating dietary contribution.

Q2 *Are there any particular food categories or types of food packages (e.g. single serve packages) for which per serving information is particularly useful? If so, what are they? Explain why the information is useful.*

Per serving information is particularly useful for single serve packaging, and for packages which contain discrete units, e.g. biscuits. This information delivers the actual amount of the nutrient so that I don't have to calculate it and I can compare it with similar products which might have differing serve sizes.

Q3 *The Labelling Review recommendation suggests that per serving information be voluntary unless a daily intake claim is made.*

Do you support this approach? That is, do you think declaration of per serving information in the nutrition information panel should be mandatory if a daily intake claim is made (e.g. %DI or %RDI)? Give reasons for your answer.

All unitised foods, whether a claim is being made or not should have per serve information to facilitate dietary intake calculations and to facilitate comparison between similar products no matter whether a claim is made or not.

Removing "per serve" information and just having %DI or %RDI information will require quite a change in the way dietary advice is given and managed. It is usually spoken of in grams, and not %DI.

Q4 *As noted in Section 4, there is currently variation in the format of NIPs on food labels because of voluntary permissions for the use of %DI labelling and the option to include a third column for foods intended to be prepared or consumed with at least one other food. If per serving information in the NIP was voluntary this would result in more variability in the format of NIPs across the food supply. Do you think this would be a problem? Why/why not?*

Even if inclusion of per serve information was voluntary, NIPs are unlikely to vary greatly. If sufficient consumers ask for the information, the larger manufacturers will supply that information. The provision of current front of pack labelling is voluntary in an attempt to satisfy consumer concerns.

- Q5 *If per serving information in the nutrition information panel was voluntary, do you think the inclusion of per serving information in the nutrition information panel should be mandatory when a nutrition content claim about vitamins, minerals, protein, omega-3-fatty acids or dietary fibre is made? Give reasons for your answer.*

When a claim is made, the “per serving” information should be mandatory so that, firstly the claim can be checked to see that it is permitted, and secondly so that the actual amount of the claimed nutrient which is delivered per reasonable serve is actually delivered.

- Q6 *If per serving information in the nutrition information panel was voluntary, do you think the inclusion of per serving information in the NIP should be mandatory in any other specific regulatory situations? Explain your answer*

Per serving information should be mandatory for unitised foods. This forces a check on the appropriateness of the serve size to the use of the food in a recommended adult diet. Proof of this can be seen with soft drink companies reducing the size of their single serve cans once they realised what the %DI energy contribution was. The %DI energy contribution of confectionery has also influenced changes in serve size. This argument does not hold for bulk materials as the serve size cannot be controlled by the provider.

- Q7 *What additional studies examine consumer use and understanding of per serving information in the nutrition information panel on food labels? Please provide a copy of studies where possible.*

I have not data I am permitted to share, however very little education is provided to the public to assist them in understanding the information. Those who do understand it usually have a particular personal health need which drives their education.

- Q8 *From your perspective, what are the advantages and disadvantages of per serving information in the nutrition information panel being voluntary? Please provide evidence where possible.*

The advantage is that it allows industry space to make the font size of the other information larger, but with no adequate regulation around this, it is unlikely to actually have this benefit as the space will be used for other non-regulatory purposes. As mentioned above, there is no less work involved in creating a NIP with or without this information.

The disadvantage is that a form of information will be removed (if industry indeed decides to remove it) with the public perception that industry is hiding information again with the consequent loss of credibility.

- Q9 *Do you think the declaration of the amount of energy and nutrients per serving in the NIP should be voluntary? YES/NO/UNCERTAIN*

Please give reasons and evidence to support your view.

If you are UNCERTAIN, please indicate what information you would need in order to form a view.

As indicated above, declaration of the amount of energy and nutrients per serving in the NIP should be required of unitised foods, but voluntary for bulk foods. A unitised product is one where the pack contains a number of discrete units (eg. Biscuits, health bars) or where the product is intended to be consumed or used in its entirety at one consumption or preparation event, eg canned soft-drink, prepared meals, bags of crisps.

Conclusions:

1. Removing the “per serve” information has very little or no impact on the regulatory burden on industry. Once the “per 100g/100mL” information has been provided, the calculation of per serve information for an Information Panel is trivial and there are many computer programs that assist with this.
2. “Per serve” information is useful and should be provided
 - a. When the food is unitised, that is in individual units where the number of units per serve is less than 4.
 - b. When a claim is made about the food.
3. Indicating serve size (and with associated serve information and number of serves per pack) on a bulk pack is problematic
 - a. The actual serve size will depend on the requirements of the consumer.
 - b. There may be a number of uses of the food and the serve size will be different in each case.
4. Indicating DI% Energy per serve inherently flags excessive serve sizes and causes the provider to reassess.
5. Regulated serve sizes are problematic for many reasons.
6. The display of nutrients other than those required by regulation in the Nutrition Panel should be voluntary without constituting a claim as long as the Daily Intake or Recommended Daily Intake is also provided.
7. Where understanding of labelling is thought to be confusing especially by consumers, strong consideration should be given to providing education rather than oversimplifying and thereby introducing half-truths and therefore a burden for both FSANZ and industry.

Contact Details

Dr Allan J Poynton

Food Industry Consultant

PO Box 131

Bentleigh VIC 3204

Phone:

[REDACTED]

[REDACTED]