

6 FOOD INDUSTRY

A range of stakeholders within the food industry took part in in-depth face to face interviews. These included:

- Larger Food Manufacturers;
- Small Food Manufacturers;
- Food Retailers; and
- Food Service Establishments.

Due to the differences between businesses, the format of the interview varied. In large businesses, where a number of people had responsibility for labelling, a two-tiered individual interview or paired interview was conducted with both a senior employee and a more 'hands – on' staff member of the company. This enabled the researcher to obtain different perspectives on the same issues from within the same company. Many small businesses however had only had one person responsible for food labelling.

6.1. Food Manufacturers

As detailed in the methodology section of this report, small manufacturers were classified as businesses with less than 20 employees (and larger with more than 20 employees). It should be noted that almost all of the small manufacturers (n=8) were reasonably substantial organisations, producing a number of product lines. That is, no businesses were sole traders, or home-style businesses and this is reflected in their levels of awareness and knowledge about food labelling.

6.1.1. Awareness of Changes to Labelling Requirements

All of the large food manufacturers that participated in the research had heard of ANZFA and the Food Standards Code / Food Regulations. These manufacturers had made significant progress towards the transition from the old Code/Regulations to the new Code requirements, and therefore had a good understanding of the changes, and their implications for their business.

Small food manufacturers were similarly aware of both ANZFA and the existence of the Food Standards Code/Food Regulation. However, fewer small manufacturers (about half of those participating in the research) were aware of the specific changes, or their implications of those changes to their business.

It is important to note that both the large and small manufacturers that participated in the research felt that there would be plenty of (other) smaller manufacturers who would have little or no awareness of the pending labelling changes.

6.1.2. Sources of Information and Communication

In most cases, the level of awareness was related to a manufacturer's degree of involvement with industry bodies, such as the Australian Food and Grocery Council, Grocery Manufacturers Association, Confectionary Manufacturers Association, Chamber of Commerce and Industry etc. It was recognised and understood that these organisations maintain an ongoing and consultative dialogue with ANZFA and are relied upon to remain informed about labelling changes. These bodies play a significant role in disseminating information about labelling regulations to their members.

Many of the large manufacturers had been aware of the impending changes to food labelling legislation for a number of years, and had therefore been anticipating and tracking information as it became available.

In other cases, some of the smaller / medium-sized manufacturers who sell produce to the large supermarkets (Coles, Woolworths, etc) are likely to have a marketing agent to look after the regulations and requirements specified by the supermarkets. In these cases, the marketing agent is the most used and trusted source of information about labelling requirements. In this context, manufacturers again voiced concerns over the likelihood that small (and medium-size) manufacturers who are not involved in supplying the large supermarket chains will be unaware of the impending changes.

Other industry contacts and sources such as food technologists, institutes and academic organisations, industry publications and articles, suppliers and competitors (mainly large manufacturers) were also used by manufacturers to obtain information and clarification regarding labelling changes. Several of the large manufacturers commented that, in the absence of clear or consistent information from formal sources such as ANZFA and industry bodies, they were initiating collaborative meetings with direct competitors to attempt to reach an agreed 'industry' understanding or translation of a particular labelling requirement.

Larger manufacturers also tended to initiate direct communication with ANZFA, either via phone or in seeking written clarification with regards to particular labelling issues. Often this contact was conducted on their behalf by lawyers that have had to be commissioned as a result of the potential implications of specific labelling changes. Other small and large manufacturers have obtained considerable information by attending ANZFA seminars, or similar seminars coordinated by their local council or industry association.

Other smaller and less pro-active manufacturers had mostly found out about labelling changes via the media, and by their own observation of labelling on other products, or in one case in New Zealand, a leaflet in a cereal box received at home.

6.1.3. Overall Implications of Labelling Changes

The degree of concern about the labelling changes in the new Code and the amount of time spent attending to the implications is to a large extent determined by a manufacturer's awareness and understanding of those changes. Those who had begun to prepare for compliance reported considerable negative implications and costs for their business, involving direct and indirect costs. Most manufacturers were frustrated that many of these costs were driven by issues outside their control, such as struggling to obtain vital information from suppliers to enable labels to be compliant, or uncertainty and industry inconsistency over the translation of particular requirements.

Direct financial costs have been incurred through:

- the development and printing of new labelling artwork, larger labels to accommodate extra information, and often added costs of new labelling machinery where labels are produced internally;
- loss of economies of scale for label printing until the new labelling is ready (manufacturers who have been forced to order small print runs as they have not been able to utilise the whole two year transition period);
- the potential write-off of all stock in trade and stock run-out after December 2002;
- nutrient composition analysis for mandatory NIPs;
- hiring of lawyers and consultants to interpret and rule on labelling requirements where interpretation is unclear and ANZFA provide no further clarification.

Indirect costs include substantial time and personnel resources invested in:

- learning about and implementing the new labelling requirements;
- sourcing and tracing ingredient compositions and information from suppliers for ingredient declaration, allergen and GM labelling;
- undesired change of focus off new product development as all available time and personnel resources are re-directed at labelling compliance;

- planning and infrastructure, and the development of new systems, processes and devices in order to not just implement but also maintain compliance eg. building systems and data bases to track, monitor and manage supplier changes for each product line;
- duplication of work due to implementing labelling changes based on draft guidelines which changed at a later date (eg. NIP).

Other implications and problems

Other issues raised by many large and medium-sized manufacturers relate to:

- Supplier relationship management - being one of many manufacturers seen to be 'harassing' suppliers for ingredient and compound ingredient compositional information that they either do not have, or are reluctant (or unwilling) to provide; and managing relationships with suppliers as they are required to provide updates on changes in formulations and production techniques that impact on labelling (where they have never impacted in the past);
- Seasonality – implications for supplier management as described above as changes in seasonal sourcing occur at different times of the year or month;
- Finding and accessing specialists and advisers, and a limited resource pool to attract specialised technical personnel needed to maintain compliance;
- Limited number of design houses and label suppliers, many of whom are already indicating they are unlikely to be able to meet demand or provide manufacturers with a commitment to deliver labels in next 3-4 months;
- Increased consumer inquiries, at least in the short term. For some manufacturers who have changed labels, this had already begun to occur, others speculated that it was an inevitable outcome. Either way, manufacturers resented the fact that their time will be occupied responding to consumer inquiries brought about by labelling changes. It was felt that ANZFA should take responsibility for educating consumers about labelling changes so as to circumvent much of this need;
- Marketing issues and implications for product development particularly lower fat products now that saturated fat must be declared (meat products and ice cream in particular);

- Cost impact for consumers as manufacturers and retailers pass costs on to consumers. As well, there was concern over the potential broadening of the price margin between healthy/top quality and less healthy/lower quality products, further disadvantaging poorer consumers who can not afford to buy at the 'top end' of the market, and for whom product choice, range and quality may diminish.

Finally, most manufacturers, and large manufacturers in particular commented on the sheer volume of work that the food labelling review has placed upon their staff over the last two years. They expressed a sense of exhaustion, having had to implement GM labelling changes in the previous year and now having to immediately move to nutrition and other labelling requirements with no period of recovery. On the other hand, some manufacturers also acknowledged that at least this time, the learnings from the GM experience could be applied.

Interesting point of difference between Australia and New Zealand

It should be noted that while all of the implications described in the above section are applicable to both Australian and New Zealand manufacturers, New Zealand manufacturers appeared to be more accepting of the new requirements than did Australian manufacturers. It is speculated that this attitudinal difference could reflect a broader cultural difference between Australian and New Zealand people, the latter whom tend to be more accommodating of and less objecting to legislative and policy requirements. Many New Zealand manufacturers regarded the labelling requirements as just another compliance issue that had to be responded to. The following comment from a New Zealand manufacturer illustrates this attitudinal difference, which was conspicuously absent from the Australian manufacturers who participated in the research:

"The code doesn't mean anything to me. Just like the tax law it is about compliance. I have no feelings either way".

6.1.4. Impact of Specific Labelling Changes

The labels with the most significant implications and concerns for manufacturers were:

1. NIPs
2. Percentage labelling (characterising ingredient labelling);
3. Ingredient declarations and allergen labelling;
4. GM labels;
5. Country of origin labels;
6. Date marking;
7. Legibility requirements;
8. Nutrient claims.

Overwhelmingly, of greatest concern were NIPs, percentage labelling and ingredient declarations. These three label types are addressed in detail first, followed by the implications of the remaining labels listed above.

Nutrition Information Panels (NIPs)

The introduction of mandatory nutrition panels for all products was, together with the introduction of percentage labelling, the most onerous and costly of all labelling changes and was, not surprisingly, mentioned spontaneously by all food manufacturers (who were aware of these changes).

The main concerns with mandatory NIPs were the increased costs for analysis, and the cost and design implications in order to accommodate the NIP into the product label (including re-formatting of existing NIPs). For many manufacturers, this has meant a complete re-design of a label, often meaning an increase in label size and in some instances a larger package.

Significant analysis costs are incurred by both small and large manufacturers. Whilst many large manufacturers already put NIPs on some products (either market leaders, or products that make a nutrient claim), there is extra information or re-calculations that need to be analysed for the mandatory NIP, in particular saturated fat, energy, and carbohydrate. Many manufacturers did not appear to be aware that whilst a new method for calculating carbohydrate has been approved by ANZFA, the old method has also been retained. As well, large manufacturers generally have more products that have to be analysed, including those that have never carried an NIP in the past, and those for which the a nutrient content is 0%. Small manufacturers bear the costs of creating NIPs from scratch, and therefore requiring nutrient composition information for all NIP standard nutrients.

One implication of the standardisation of the NIP for some consumers may well be an apparent reduction in nutrition information. One large manufacturer made the point that they would no longer be including cholesterol in the NIP because to do so means also including the fat breakdown, thereby requiring significantly more space for the NIP than their labels can afford. They anticipated receiving calls from consumers who now look for that information and will no longer be able to find it, or who may be asking if the product no longer contains cholesterol as it once did. It should be noted however that many health professionals welcomed any shift in focus from cholesterol to saturated fat.

Manufacturers have chosen to approach nutrient analysis differently, using one or a mixture of:

- independent laboratory testing facilities (for all NIP nutrients, selected nutrients that have not previously been analysed, or selected ingredients);
- theoretical food composition tables, or
- the Nutrition Panel Calculator on the ANZFA website (Australia only).

A manufacturer's choice of method is determined by balancing the need to contain costs (and therefore the use of theoretical tables or the Nutrition Panel Calculator) versus an increased need for confidence in the accuracy of the NIP so that it can stand up to scrutiny and/or challenges from competitors or enforcement agencies. In this regard, products that are market leaders, or that make nutrient claims are often verified with laboratory analysis.

Use of the Nutrition Panel Calculator on the ANZFA website is not yet extensive but it was felt by small and large manufacturers that it would become increasingly useful, particularly to small manufacturers, as they became aware of its existence (and the need to provide an NIP on their products). Larger manufacturers had generally not found the Nutrition Panel Calculator helpful for several reasons:

1. It had been made available too late in the transition process, and they had already proceeded to laboratory analysis – a point about which many were very annoyed;
2. Their own comparisons between the Calculator and laboratory analyses were sufficiently different for them to lose faith in the reliability of the Calculator for individual products; or
3. The Calculator was unsuitable for complex recipes, or for recipes that included ingredients not listed in the nutrient data base.

The Nutrition Panel Calculator was not used by any New Zealand manufacturers who were mostly unaware of its existence. When questioned it became apparent that the ANZFA website accessed from New Zealand does not offer the Calculator, although most NZ companies were interested in the notion of such a device as long as it used New Zealand data.

Smaller and less prepared manufacturers had given little or no thought as to what would be involved in complying with the NIP requirement and how they would approach compliance.

Percentage Labelling

Percentage labelling was more commonly referred to by food manufacturers as characterising ingredient labelling, or declaration of characterising ingredient. Almost all manufacturers were critical of its introduction, and most were more frustrated and impatient about this label element than any other type.

Whilst most manufacturers understood and, in the main, agreed with the intent behind percentage labelling, their main criticism related to the subjectivity of its interpretation. The key concerns were:

- In all but simple product examples such as flavoured yogurt and fruit juice, difficulty in determining what is/are the characterising ingredient/s (the most common concern). As well, because there are no general rules to determine the characterising ingredient, each product has to be determined on a case by case basis which is time consuming. This problem was causing manufacturers considerable consternation and financial costs as they seek clarification from legal advice in the absence of advice or product 'rulings' from ANZFA, as well as anxiety that the assumptions they make about characterising ingredients will be challenged by enforcement agencies or competitors;
- Potential incongruity between what the consumer and manufacturer may interpret as the characterising ingredient, thereby negating any real consumer benefit of the regulation;
- The calculation of the characterising ingredient is open to manipulation depending on the way in which a manufacturer decides to do its mathematics, once again negating the provision of a consistent and true measure for consumers.

The concern by more informed manufacturers was that the manipulation of the content of the characterising ingredient, for example by re-constitution or choice of inferior quality of an ingredient, does not help the consumer to make an informed choice. Whilst manufacturers at the 'top end' of the market felt that percentage labelling may give them a marketing advantage, they were nonetheless concerned about the potential for false representation of characterising ingredients by their 'lower quality' competitors.

Some manufacturers were also concerned and resentful that businesses were increasingly being required to give away their formulations and recipes which they regarded as commercially sensitive and part of their competitive advantage, as is illustrated by the following comment:

“I’ve had the analysis done but the situation is rubbish. No one will tell the truth. They would be mugs if they did. Are they going to give their recipes away?”

Less prepared manufacturers had no knowledge of percentage labelling requirements.

Allergen declarations

Not all manufacturers were aware of the full range of allergens included in the extended list (all nuts, fish, seafood, milk, gluten, eggs, soybeans) however most were aware of the allergens that related to their own products. Many were personally unaware of the risk of fish for allergy sufferers, and tended to think of shellfish as being the problem.

Whilst all manufacturers supported the provision of extra information that could prevent harm to allergy sufferers, there were two different perspectives of concern:

1. The extent of extra effort and costs incurred by manufacturers to ensure equipment was cleaned and secured after processing nuts (ie consequences for manufacturers);
2. Increased declaration of allergens, and in particular increased use of the ‘may contain...’ or ‘derived from...’ advisory statement which in effect reduces consumers access to allergen-free foods, where there is in fact no real increased risk (ie consequences for consumers). An example of this is where a product is required to state that it is derived from an ingredient containing gluten/wheat but it is rendered gluten-free in production, thereby being suitable for coeliacs. This concern was shared by health professionals.

Many manufacturers indicated they were having to chase suppliers for details of compound ingredients and flavours, particularly where that supplier was not the original source. Where this information could not be obtained, or no guarantee could be given as to the allergen status of an ingredient or compound ingredient, manufacturers felt obligated to use the ‘may contain...’ advisory statement.

Amongst less informed manufacturers, there was uncertainty as to what circumstances would require a label declaration, such as a clear bag of peanuts. Others were seeking clarification as to what forms of nuts must be declared, eg peanut oil, pine nuts, coconut.

The introduction of allergen declarations was also supported by other manufacturers where they could foresee a real risk if an allergen sufferer unknowingly consumed their product through lack of information. One example of this was a chocolate manufacturer who was acutely aware of the need for correct labelling of chocolate-coated peanuts that could be mistaken for chocolate raisins. [Technical note – The Australian Food and Grocery Council have developed an industry Code of Practice for Allergen Management and Labelling – see Technical Background Notes section 9.]

Genetically modified labelling

Manufacturers in both Australia and New Zealand were aware of this requirement, which had received a lot of publicity in both countries. [Technical note – the GM standard came into force on 7 December 2001 with a 12 month stock-in-trade provision.] As the requirements for GMO labelling had been introduced and bedded down in advance of other labelling requirements, most manufacturers had arrived at their position on GMO labelling and begun to implement their policy.

All manufacturers participating in the research had made the decision to avoid the requirement to declare GMO ingredients either by not using GMO ingredients or by ensuring products do not exceed the 1% threshold for unintended contamination. This decision was based almost exclusively on perceived consumer preferences to avoid GMO foods, but was also influenced by the significant hassle involved in monitoring ingredients for GMO labelling. Nonetheless, ensuring 'GMO free' or 'non-GMO' status (there was considerable confusion between these two terms) and thereby avoiding the need to declare GM ingredients on the label were still viewed as being extremely onerous for Australian manufacturers who have had to develop systems and data bases to ensure that suppliers certify that their products are free of GMOs. NZ manufacturers stated that suppliers tended to be helpful in providing this information as they knew it was necessary in order to maintain business with a manufacturer.

In contrast, some Australian manufacturers reported greater problems obtaining this information, particularly from international suppliers who are not required to provide the same level of certification for other countries. Further indirect costs were incurred through research and development in order to find alternative products and ingredients and ingredient recipes.

It was proposed that smaller suppliers might find themselves penalised because they will be overlooked if manufacturers prefer to use larger suppliers on the basis that they are better equipped and more efficient at providing the necessary assurances. There was also some concern expressed about the increased likelihood that some suppliers might find it easier to lie than attempt to guarantee GMO free status when it is impossible to ensure (for example due to contamination by nearby crops).

Date marking

In both countries, awareness and understanding of the two standard date mark terms ('best before' and 'use by') was mixed. Most manufacturers understood the differentiation in terms and had no significant problems with the change. For most, this was a minor change compared to the implications of nutrition and ingredient labelling. However there were a few manufacturers who were uncertain which term applied to their particular products, and whether it applied to un-packaged food.

The impact of the new date marking requirements was much greater for New Zealand manufacturers who had not previously been required to provide this extent of date marks.

The product line most impacted by date marks appeared to be bread products and bakery items, where previously a 'use by' date was printed on a small plastic tag that closed the bag. The requirement to now use the term 'best before' had major cost and processing implications. Manufacturers of bakery goods presently sold un-packaged were also concerned about the significant implications for their baking processes and quantities if they were required to package and label their products.

Country of Origin

Most manufacturers interested in or concerned about this labelling issue were aware that it was still under review by ANZFA at the time of the research and therefore had little comment to make. Again it was felt that the greatest implication would be for New Zealand manufacturers for whom mandatory country of origin labelling has previously not existed.

Implications for Imported Foods

This was a grey area where some manufacturers had many questions and concerns, whilst others were unaffected. It was speculated by several manufacturers that there might be some shifts in the range of some imported food lines as some large overseas manufacturers decide to pull out of the Australian and New Zealand market rather than have to change their product labelling in order to meet the new Code requirements.

Other concerns related to an Australian manufacturer's time and effort taken up tracking down the detailed ingredient information required for label updates, and the potential unwillingness or inability of an overseas supplier to deal with them in the future if this information could not be provided.

Furthermore, some manufacturers asked how compliance would be enforced for imported products, and were concerned that this would be a significant problem area for enforcement agencies. Some also questioned whether an imported product was expected to produce an NIP using Australian/New Zealand data or their own data, and if the importer would be required to re-label the same nutrition information to ANZ FSC format.

Legibility Requirements

Some manufacturers also commented on the difficulty they were facing including all the new information within existing label dimensions and formats whilst still meeting the legibility criteria. Many were having to re-size labels and this had meant switching to new machinery, with substantial cost implications. For smaller manufacturers this remained an unresolved issue, as they did not feel they could afford the costs of new label machinery.

Preparation and Storage Instructions

Compared to all other label requirements, preparation and storage instructions had low salience with manufacturers and were not frequently mentioned. One manufacturer in particular was concerned about the ramifications for consumer awareness and understanding as storage instructions were brought in line with the new requirements to meet public health and safety standards. This manufacturer could foresee that they would receive consumer inquiries asking why they had changed the storage instructions, the implication being that something in the product had changed rather than the labelling requirement.

Nutrition Claims

This labelling area was unresolved as manufacturers wait with much anxiety for the outcomes of ANZFA's review. Their concerns focused on the implications for further labelling changes, the future status and application of the Code of Practice and Trade Practices Act and how any recommended standard on nutrient claims would be enforced.

6.1.5. Level of Preparedness and Approach to Transition

Overall, the large manufacturers who participated in the research were considerably more advanced in their preparation towards compliance than were small manufacturers. However the extent of a manufacturer's progress, particularly smaller manufacturers, was determined by their:

- awareness and understanding of the implications of the changes to their business; and
- available time and resources dedicated to implementing labelling changes.

Both of these factors influenced when they commenced preparation for labelling changes, and their transition timeframe.

Small manufacturers interviewed who were fully versed on the labelling changes that affected their business appeared to have, at the time that the research was conducted, achieved greater compliance than large manufacturers. However this could well be a result of having fewer product lines and processing issues to contend with. Most reported to be between 25% and 80% compliant. By contrast, other small manufacturers with less awareness or understanding of the labelling changes had taken no or very little planning or actions and had not begun the transition in any practical sense. They admitted that they had probably left their run a bit late, and did not know how they would now manage to be compliant by December 2002.

Although very few larger manufacturers were fully compliant at the time of the interview, most reported to be between 0% and 50% compliant, all but one intended to be 100% compliant by December 2002. These companies had invested substantial time and resources to ensure that they would be fully or nearly compliant by the deadline. Their lesser degree of compliance at the time the research was conducted (compared to smaller manufacturers) was not an indication of lack of preparedness, but rather an indication of their forward planning as they manage stock run-out and turnover issues in the countdown to the compliance deadline, or an indication of the complexity of the labelling issues that they were still grappling with. The magnitude of these issues, and the far-reaching impact they were having on these companies cannot be under-stated.

The 2 year transition period

Many manufacturers who had progressed towards transition expressed considerable dissatisfaction with the amount of useable time they have had to prepare for compliance. The general consensus was that a two year transition period would have been fair had all of the labelling requirements and issues been resolved at start of that period, and manufacturers had therefore had been able to utilise the whole two years.

This is not to say that all manufacturers would have been in a better position with regards to compliance had this occurred, the research shows that there are several barriers to take-up that would have meant many smaller manufacturers were unprepared regardless. However, larger manufacturers, who require longer lead times to implement labelling changes, felt that their preparation and implementation has been hampered because of the late provision of:

- technical detail and requirements of some labelling standards, and the perceived changing of those requirements during the transition period (for example the inclusion of saturated fat and the new definition of carbohydrate in the NIP after the draft standards had been released);
- the ANZFA helpline;
- the ANZFA user guides.

The essence of these manufacturers' complaint is that during the transition period the goal posts kept changing, leading to either a duplication of work because large manufacturers commenced label changes based on the draft standards (to ensure compliance by December 2002) or lack of preparation as they waited for confirmation of final standards, user guides and clarification of labelling issues.

It was further pointed out that, at the time of the research, some labelling issues remain under review by ANZFA (nutrient claims; country of origin, dietary supplements). Manufacturers remain concerned about the likely impact of the outcomes of these reviews on further labelling changes and ensuing costs.

In this context, there was no common understanding of the exact cut off period for old versus new labels (and the likely enforcement implications) and their treatment of stock in trade at December 2002. Manufacturers were unsure whether ANZFA would allow a period of 'grace' where pre-printed old labels in storage or on stock-in-trade could be run out. Some had taken the position that they would have to have all stock-in-trade re-labelled or withdrawn. Others felt that this would be an unrealistic expectation and a period of grace would have to be provided to allow manufacturers the opportunity to run out stock with existing labels, in which case they would need 6 months to 2 years to do this. The issue of stock-in-trade requires further clarification by ANZFA and any ruling against a period of grace would be hotly contested by manufacturers, with some companies putting in place their own stock-in-trade run-out period regardless. [Technical note – ANZFA has since developed two proposals to deal with the issue of these transitional arrangements – see Section 9).

6.1.6. Compliance and Enforcement Issues

Manufacturers as a whole were not well informed about compliance and enforcement issues. Most did not know how the labelling regulations would be enforced, or by whom. When pressed, some manufacturers assumed, by default, that this responsibility would rest with local council enforcement officers or state health authorities. Speculation regarding EHO enforcement was questioned because so many of the label changes are not seen to be public health and safety issues, naturally falling under the environmental health domain. Likely enforcement by 'current' methods raised concerns and scepticism, based on past enforcement practice, about inconsistency in enforcement between jurisdictions and individual officers. The concern about approaches to enforcement was particularly strong amongst large manufacturers whose main production was located in one state or country and was geared towards the realistic compliance expectations of that jurisdiction, but may well be inconsistent with the practices of another state or country.

With regards to the significant new labelling changes (nutrition labelling, % labelling and allergen declarations), most manufacturers felt that they would be under more scrutiny from consumers and competitors than from pro-active enforcement officers, although officers may well be kept busy responding to these complaints. The high profile large manufacturers who participated in this research fully expect to be the subject of 'tall poppy syndrome' and that they will undergo greater scrutiny from competitors and regulators.

Almost all manufacturers who participated in the research spontaneously raised their concern that, whilst they may be reasonably aware and prepared for compliance, there would be many smaller manufacturers who will not be compliant because they either don't know about the changes, or are not sufficiently resourced to implement them by December. Some large manufacturers were disgruntled that they were having to incur significant up front legal costs to clarify various points so that they are covered in the event of a compliance challenge, yet there will be hundreds of smaller manufacturers who escape detection.

As well, some manufacturers thought that as a consequence of all the implications of labelling changes on implementation, some manufacturers may decide to take a calculated risk and breach compliance for some lines as they prioritise products in their label change-over program.

6.1.7. Perceived Benefits

Overwhelmingly, manufacturers regarded the main benefits of the new labelling requirements as being for consumers, who could now make informed choices about the contents of the products they buy.

However, their assessment of the value of these benefits depended on their beliefs regarding consumers' use of labels. Some felt that the labelling changes are not really wanted by consumers since it was commonly believed that most consumers don't read labels. This view was shared by enforcement officers. Manufacturers with this view were more negative about all the aspects of labelling changes, feeling that the whole exercise was probably a waste of time and money. Other manufacturers were very supportive of changes that provide more information to consumers and helped them to make informed choices, particularly with regards to nutrition and allergen information. The inquiries and comments that they received directly from consumers (via consumer helplines etc) vouched for the very real demand for this information. Their criticisms were contained to the way in which the changes had been implemented by ANZFA, the impact for industry, and with regards to percentage labelling the real versus intended benefit for consumers, rather than being about the introduction of the changes themselves.

The common view amongst all manufacturers was that there are few benefits that will flow to the manufacturer from compliance with the labelling requirements. However some manufacturers did acknowledge the following benefits:

- An opportunity to revamp and redesign their product labels;
- An opportunity for marketing advantage, particularly with regards to lower fat products and 'quality' issues highlighted from percentage labelling, however these opportunities were accompanied by parallel threats as competitors can do the same, or challenge their marketing claims;
- Potential impetus for some manufacturers to pursue lower fat ingredients and products with the introduction of mandatory NIPs and the inclusion of saturated fat;
- An opportunity for manufacturers to strengthen their integrity with consumers and increase trust and consumer confidence (eg. allergen labelling);
- Greater flexibility as the new Code is less prescriptive than the old Code, which could be worked to a manufacturer's advantage. However this was also seen to be a negative in that less prescription allows for variation, subjective interpretation and hence potential lack of standardisation;
- An opportunity for manufacturers to know more about their products, foster relationships with suppliers, and establish some 'company vision' views and procedures on issues such as allergens and GMOs;
- Greater harmonisation between Australia and New Zealand (for manufacturers that trade in both countries).

Manufacturers were asked to what extent they thought that the new labelling changes matched with consumer needs and wants. Again, they were divided in their responses. Some manufacturers felt that consumers were wanting more of this type of information (nutrition and allergen composition) and it was an inevitable step in the right direction, if anything well overdue. Others agreed with the need to provide consumers with this information if they wanted it, but argued that the demand was amongst special or niche groups rather than the general population. Their view was that the whole food industry was being 'turned upside down' in order to meet the needs of the minority, and they felt that this information could be made available through more cost effective means, rather than obligating every manufacturer to label every product.

Many manufacturers were unsure of the way in which a consumer uses the NIP, if at all, to make a product choice, and which consumers were doing so. There were seeking evidence to substantiate the need for mandatory NIPs, particularly when other key foods such as packaged meat and fast foods are exempt from the standard, yet could potentially contribute more fat or sodium to a consumer's diet than their own products would.

The inclusion of the mandatory NIP and percentage labelling were viewed as being 'overkill' by some manufacturers, as is illustrated in the following comment:

"I'm quite happy to support food safety issues but I don't see the need for a NIP on a bag of sultanas" (NZ food manufacturer).

6.1.8. ANZFA Information Resources

How and where manufacturers found out about labelling information and the new standards has been discussed earlier in this report. After general discussion about these information sources, manufacturers were asked specifically about the ANZFA resources such as the website, the user guides and fact sheets, the hotline, and the Nutrition Panel Calculator (discussed previously).

ANZFA website

Amongst those who are advanced in their preparation and implementation, the ANZFA website was used regularly. It was generally viewed as being the most reliable and up to date source of information, as well as a usually efficient means of obtaining that information. However, almost all manufacturers had experienced difficulties at some stage either accessing the information they needed, or negotiating around the website. In this regard, it was not considered to be particularly user-friendly, unless you knew exactly what you were after, and where to find it. Consequently, some manufacturers were regular users, and others had tried once or twice and not used it since.

ANZFA user guides and fact sheets

Similar reactions were reported for the user guides. Overall, manufacturers strongly supported their development in concept, however their usefulness depended on one's base knowledge, and the complexity of the query or product in question when using them. Some manufacturers rated them as very helpful and including all the necessary information, but more commonly their usefulness was limited for a number of reasons (in their view):

- they came out too late in the implementation/transition process;
- they had changed frequently [Technical note – the majority of user guides were available in draft form on the ANZFA website from March 2001; eleven were available in final form in August 2001. Three additional guides were finalised in September 2001, November 2001 and March 2002. Once each user guide was finalised, no further changes have been made.

- they were too simplistic and only addressed simple product examples – although ANZFA did not intend the guides to solve individual product or complex problems, manufacturers pointed out that simple or generic issues could generally be resolved using the new Code standards themselves. It was the more complex issues that required further interpretive information, and thus when the guides were needed;
- they provided no new information or clarification, rather they re-stated what was already in the Standard.

Most manufacturers participating in the research were aware of and had received the ANZFA fact sheets and newsletters, which were accessed either by being on the ANZFA mailing list or other industry mail lists utilised by ANZFA. These materials were regarded as informative, easy to read, and useful.

ANZFA helpline

Not all manufacturers were aware of this service. Smaller manufacturers in particular were pleased to learn of its existence. Amongst those who had used it, this service was regarded as being very good for basic inquiries, but manufacturers had found that staff were unable to answer more complex questions, thus defeating the purpose of calling a helpline! [Technical note – the helpline was set up particularly to assist small manufacturers, who would be likely to have more simple questions]. Some manufacturers had also received conflicting advice from ANZFA staff. Food retailers, particularly large supermarkets also commented that they had found ANZFA very approachable but again, staff did not appear able to give answers to complex questions.

6.2. Food Service Establishments and Food Retailers

Food service establishments and retailers involved in the research were a mix of large chain supermarkets, small independent food retailers, café/deli establishments, restaurants and a large catering company.

Almost all the food service establishments and retailers were aware of ANZFA and the Food Standards Code. The nature and detail of their awareness and understanding of the food labelling requirements was similar to that of food manufacturers.

Large organisations had a great deal of awareness of labelling changes, and the implications for their business. They were advanced in their preparation for implementation and reported similar implications and concerns to that of manufacturers. These are not repeated again in this section.

The larger retailers expressed a number of concerns about the readiness of small and medium sized manufacturers that supply to the larger chains. Their key concern was that smaller suppliers will not be compliant in time, and felt that that a lot may go out of business as a consequence. Some of the larger retail chains were introducing processes to advise their own suppliers of the labelling changes and new requirements, but remained concerned about smaller suppliers. One chain gave examples of how it was trying to coordinate and update their suppliers, such as:

- information updating via an intra/ internet site that links with new ANZFA information;
- building new labelling requirements into contracts with manufacturers and suppliers and educating smaller suppliers of the implications of that contract;
- assisting suppliers in cross-checking and Q&A;
- conducting their own research and surveys to understand how capable suppliers are of complying and providing necessary audit information eg GMO.

Larger retailers also reported experiencing problems in achieving compliance for imported products, where importers lack understanding of the legislation, and retailers find it hard to get information to them in a language that they understand.

Large retailers were also concerned about the significant costs incurred by them, as well as manufacturers, and confirmed many health professionals' concerns that it is likely these costs will be passed on to the consumer.

Retailers and food service establishments that participated in the research also acknowledged that the main benefits of the labelling changes are intended for consumers, and like manufacturers doubted whether consumers would actually use the new labelling provisions.

However one large retailer commented that one benefit to retailers and manufacturers was the changes to date marking requirements which now offers retailers more flexibility in regards to short date-coded products. As these products will be marked with a best before date rather than an expiry date, retailers will be able to sell the product after the best before date is reached.

The large catering company included in the research was extremely positive about the new Code, believing it will improve standards. This participant reported that the changes to the new Code had provided them with the impetus to re-examine their labelling systems as well as their food safety processes.

Large retailers were also concerned that the result of the reduction of prescriptiveness in the new Code was less uniformity, and they too complained about inconsistency in interpretation of the new Code and having received conflicting answers from ANZFA and AQIS.

Smaller businesses (food service and retailers) had more sketchy knowledge, and some had no knowledge at all of the impending labelling changes. When asked about the Food Standards Code, their awareness was associated with food safety and hygiene standards rather than labelling. For some of these business (eg small retailers), the labelling requirements of the new Code had little or no impact on their business. Those who owned or operated franchises relied on the franchiser to advise them of labelling requirements that affect them. For other small retailers and small food service establishments where food was prepared for consumption on site, labelling changes did impact on them, but they were unaware of this.

Small retailers and food service establishments that had taken no action to prepare for implementation had not done so because:

1. they were unaware of the changes that affected them; or
2. they foresaw no significant consequence of non-compliance.

For the few participants in the latter group, they had deliberately adopted a 'wait and see' approach to implementation and until they could see how it was all going to work. These people felt that they had 'been there before' through the implementation of significant food safety and food handling reform in recent years and were reluctant to make any costly changes at this stage.

Smaller retailers and food outlets commented that people are now a lot more sensitive about date marks and will not buy a product if it is approaching or out of date (whether it be a use by or best before or expiry date). The problem for the smaller retailer with slower product turnover is that many products are marked with the month of expiry rather than the date, and a consumer will reject a product as of the beginning of that month rather than the end.

Enforcement and monitoring

Except for larger retailers, most retailers and food service establishments had no idea who would be responsible for monitoring and enforcement of the labelling requirements of the new Code, or how this would be carried out. Most felt that enforcement would be a problem.

Larger retailers were aware that responsibility for enforcement would fall to state health authorities or local councils, but they too had serious concerns about the viability of monitoring and enforcement. The issue of label stock run-out and non-compliance was raised by most of the large retailers who were unsure of how it would all 'work' after December 2002. There was uncertainty about whether products incorrectly labelled would have to be returned to retailers for refunds, whether all non-compliant products would have to be removed from shelves, and how complaints would be handled. Product recalls and re-testing were highly salient issues for retailers, raising questions such as:

- Who has the power to enforce a product recall?
- Who will do the testing, and how reliable will it be?
- Who will pay for it – industry or government?
- How are costs and fault apportioned to retailers vs suppliers and manufacturers?

Retailers also wondered how ANZFA would address the issue of consumer confidence in effective monitoring and enforcement.

Other unresolved issues

Food service establishments were unsure about where they stood with regards to labels on food display cabinets and snack food machines. There was also a lot of confusion and uncertainty about un-packaged foods such as deli style foods, cheeses, take away food (packaged sandwiches versus hot foods like hamburgers), bulk foods and food prepared for consumption elsewhere. Some retailers and food service establishments felt it was unfair that they were required to label foods prepared on their premises and the same exemptions that apply to restaurants and cafes should apply to these circumstances as well. It was noted that although ANZFA has ensured that it has consulted extensively with industry, and has representation from most of the sectors within the industry, there is no representative body for food service establishments and hence some of these unresolved issues have not been addressed.