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SUBMISSION TO THE FOOD REGULATION STANDING COMMITTEE ON IMPROVING THE COMPOSITION OF THE FOOD SUPPLY IN RELATION TO INDUSTRIALLY-PRODUCED TRANS FATS

About this submission

The George Institute for Global Health is pleased to respond to the Public Consultation Regulation Impact Statement on options for improving the composition of the food supply in relation to industrially-produced trans fats in Australia and New Zealand. We commend Food Ministers and the Food Regulation Standing Committee for their commitment to removing industrially-produced trans fats from the Australian and New Zealand food supplies, which will save lives and improve health equity. The options paper developed by the Food Regulation Standing Committee is well-evidenced, with its analysis of the options and conclusions clear and objective.

Based on recent analyses undertaken by the George Institute for Global Health and the University of Auckland to understand trans fats content and labelling, included in our respective submissions:

- A comprehensive, objective understanding of the trans fats content of foods in Australia and New Zealand is extremely difficult due to deficiencies in labelling
- Where it has been possible to assess trans fats content, drawing upon voluntary declarations on products, the situation is concerning – 38% of packaged products that quantify trans fats content in Australia exceed the 2% of total fats limit specified in the WHO best practice policy
- Some companies may be disguising known or potential industrially-produced trans fats content – in addition to products that declare trans fats content, 3660 packaged products (13% of total) in Australia may contain hidden industrially-produced trans fats, as identified through ingredients lists

The George Institute recommends that mandatory action to reduce and ultimately eliminate industrially-produced trans fats in the Australian and New Zealand food supply be taken, in line with WHO recommendations. We are already significantly behind other countries' efforts; only Australia, New Zealand, Japan and South Korea remain amongst high-income countries that have not taken effective action on trans fats. Mandatory trans fats policies have proven to be effective, cost-effective and equitable in many settings around the world.

A complete prohibition on the use of partially-hydrogenated oil in all settings will be easy for industry to implement and governments to monitor. A limit on trans fats content, set to the

WHO-recommended level of 2% of total fats content, is a suitable backup option but will be more difficult to implement and evaluate. Voluntary reformulation options will not achieve the same level of health protection and cannot be supported.

In this submission we respond to each of the questions posed in the Public Consultation Regulation Impact Statement. Given the comprehensive reporting of the literature within the Public Consultation Regulation Impact Statement, we have avoided duplicating results and commentary therein as far as possible.

About The George Institute for Global Health

The George Institute is a leading independent global medical research institute established and headquartered in Sydney. It has major centres in China, India and the UK, and an international network of experts and collaborators. Our mission is to improve the health of millions of people worldwide by using innovative approaches to prevent and treat the world's biggest killers: non-communicable diseases (NCDs) and injury.

Our work aims to generate effective, evidence-based and affordable solutions to the world's biggest health challenges. We research the chronic and critical conditions that cause the greatest loss of life and quality of life, and the most substantial economic burden, particularly in resource-poor settings.

Our Food Policy Team works in Australia and overseas to reduce death and disease caused by suboptimal diets, characterised by excessive intake of unhealthy foods and beverages, high in salt, harmful fats, added sugars and excess energy, in place of healthy foods. The team conducts multi-disciplinary research with a focus on generating outputs that will help government, industry and communities to deliver healthier food environments for all.

Acknowledgement of Country

The George Institute for Global Health acknowledges the traditional owners of the lands on which we work, and in particular the Gadigal people of the Eora Nation, on which our Sydney office is situated, and the Wurundjeri People of the Kulin Nation, where this submission was predominantly written. We pay our respects to Elders past, present and future. We value and respect the ongoing connection of Aboriginal and Torres Strait Islander peoples to Country and seek to work in partnership with communities to deliver better health outcomes.

1. Are there any other estimates of the contribution of trans fat consumption to heart disease in Australia or New Zealand? Please provide references for your response.

We are not aware of any other Australian or New Zealand data on heart disease, nor of any Australian or New Zealand data on other outcomes.

The options paper outlines the impact of trans fats consumption on the burden of heart disease. While this is understandable, given the strong evidence of causality and the singular focus of the high-quality research conducted to date, we believe this to be a conservative estimate of the true impact of trans fats consumption on the health and wellbeing of Australians and New Zealanders. There is evidence of an association between trans fats intake and various cancers (1), and there are potential relationships with other outcomes such as birthweight (2), dementia (3), diabetes (4, 5) and body weight and obesity (6). There is evidence that industrially-produced trans fats may be worse for health than natural/ruminant trans fats (6).

2. Is there further data on intake of trans fats in Australia or New Zealand, either at the population level, or population groups? Please provide references for your response.

We are not aware of any other data on trans fats intake in Australia or New Zealand. This lack of data highlights the need for better monitoring of population dietary intakes to identify concerns as well as improvements in dietary patterns and nutrition. The latest data available, from the 1990s and 2000s, likely does not present an accurate picture of current trends and is not adequate to inform the development and evaluation of policies in 2023.

3. Food manufacturers- Do you have additional data on trans fat content of foods in Australia or New Zealand? Data for individual foods and food companies will not be published.

We have used the FoodSwitch database to address this question using independent data. FoodSwitch is a comprehensive annual collection of packaged products from five Australian retailers (Woolworths, Coles, Aldi, IGA, Harris Farm Markets). The current analyses used the 2022 dataset (n=28449 products, after excluding alcohol and vitamins and supplements. Detailed data may be provided upon request, noting however that it is limited to the information that is provided on pack.

Of the 17% (n=4740) of products available in Australian supermarkets that included trans fats in the nutrition information panel. Of these:

- 38% (n=1786) have >2% trans fats as proportion of total fats, i.e. in excess of the level specified in the relevant WHO best practice policy
- 38% (n=1789) have >0 and ≤2% trans fats as proportion of total fats
- 25% (n=1165) have reported no trans fats content

In sum, some food companies are voluntarily declaring that their products contain significant levels of trans fats. This is surprising given the negative connotations of trans fats, and

raises further questions about the potential true prevalence of high trans fats content. Comparatively fewer products report the absence of trans fats, despite the positive connotations it may bring and the relative ease of identifying whether a product does not contain trans fats.

Please refer to the University of Auckland submission for recent New Zealand packaged food and food service data (using the Nutritrack database).

In 2019, CHOICE conducted a spot test on six Australian products, one of which contained >2% trans fats as a proportion of total fats (7). We are not aware of other recent Australian or New Zealand data on unpackaged foods from supermarkets or Australian data on content in food service settings.

We advise caution when assessing industry self-reported trans fats content, whether it occurs through the data referenced in the options paper or in response to this consultation. FoodSwitch & Nutritrack are independent of industry, however the ability to report on trans fats content through those databases is largely determined by what information industry chooses to make available about their products. This highlights the need for better (more comprehensive and government or independent) monitoring that does not rely on industry self-reporting in confidence or the voluntary declaration of trans fats content on pack.

4a. Is there any data available on the number or proportion of products that declare trans fat content in the Nutrition Information Panel for Australia and/or New Zealand?
4b. Is there any data available on the number or proportion of products that declare hydrogenated oils in the Statement of Ingredients for Australia and/or New Zealand?
4c. Food manufacturers- what information do you provide to consumers about the trans fat content of your food products?

We have used the FoodSwitch database to attempt to answer this question using independent data. FoodSwitch is a comprehensive annual collection of packaged products from five Australian retailers (Woolworths, Coles, Aldi, IGA, Harris Farm Markets). The current analyses used the 2022 dataset (n=28449 products, after excluding alcohol and vitamins and supplements). Detailed data may be provided upon request, noting however that it is limited to the information that is provided on pack.

- 17% (n=4740) of products available in Australian supermarkets included trans fats in the nutrition information panel
    - 25% (n=1165) of these reported no trans fats content

As noted previously, relatively few companies report the absence of trans fats in their products, despite it being relatively simple and likely beneficial from a marketing perspective.

- 13% (n=3660) of products do not quantify trans fats content in the nutrition information panel but list non-specific hydrogenation for a specific or generic

vegetable oil in the ingredients, or do not mention hydrogenation for a generic vegetable oil in the ingredients list

This finding highlights that a considerable number of packaged products in Australian supermarkets potentially contain industrially-produced trans fats content that is not able to be quantified or even identified by independent monitors.

- 14% (n=4067) of products list a generic vegetable oil in the ingredients
- 28% (n=7863) of products list a specific vegetable oil in the ingredients
- 2% (n=692) of products list both a generic and a specific vegetable oil in the ingredients
- <1% (n=207) of products refer to hydrogenated oil in the ingredients list
    - <1% (n=2) of which is explicitly partially-hydrogenated oil
        - 0% (n=0) of which provide trans fats in the nutrition information panel
    - 65% (n=135) of which do not specify the extent of hydrogenation
        - 17% (n=23) of which provide trans fats in the nutrition information panel
    - 34% (n=70) of which is explicitly non- or fully-hydrogenated oil
        - 49% (n=34) of which provide trans fats in the nutrition information panel

A large proportion of packaged products available in Australian supermarkets, i.e. those that list a generic vegetable oil, are not required to specify whether they contain a hydrogenated oil. A number list both a specific vegetable oil (where hydrogenation must be declared) and generic vegetable oil, occasionally where the former is non- or fully-hydrogenated but the status of the latter is not clear. Compliance with requirements to declare a process that changes the fatty acid composition of an oil, such as hydrogenation, is unknown.

Of products that declare they contain a hydrogenated oil, the proportion of products voluntarily declaring that their products contain non- or fully-hydrogenated oil (and therefore no industrially-produced trans fats) is far greater than those voluntarily declaring partially-hydrogenated oils (that do contain industrially-produced trans fats) as an ingredient. However, many more again do not specify the extent to which the implicated oil is hydrogenated (with the presence of industrially-produced trans fats therefore unknown). This lack of clarity in ingredients lists is concerning, whether due to issues with supply chain transparency or deliberate decisions by food companies.

As noted, a considerable number of packaged products in Australian supermarkets potentially contain industrially-produced trans fats, yet this cannot be readily quantified or in some cases identified at all. It is likely desirable for companies to report the absence of trans fats, which may explain why many products voluntarily disclose an oil that does not contain trans fats in the ingredients list and the propensity of those products to include trans fats in the nutrition information panel.

- 4% (n=1086) of products make nutrition or health claims relevant to trans fats content
    - 81% (n=874) of which include trans fats content in the nutrition information panel

- 8% (n=82) specifically make a trans fats claim
- 96% (n=1044) make claims about other fatty acids (saturated fats, poly-/mono-unsaturated fats, omega-3/-6/-9, Eicosa-pentaenoic acid or Docosa-hexaenoic acid)

A small number of products make nutrition or health claims relevant to trans fats content, whether explicitly referencing trans fats or not, according to the Food Standards Code. While a majority of these products provide information on trans fats in the nutrition information panel, compliance with the requirements for nutrition or health claims in general or for particular claims has not been assessed here. However, nearly one-fifth of products displaying a relevant claim do not quantify trans fats in the nutrition information panel. This may indicate that the relevant food company either does not possess information on or does not wish to display information about the trans fats content of their product, potentially raising issues for assessments of compliance with regulation.

Please refer to the University of Auckland submission for recent New Zealand packaged food and food service data (using the Nutritrack database).

We advise caution when assessing industry self-reporting of trans fats and/or vegetable oil labelling, whether previously or in response to this consultation. FoodSwitch & Nutritrack are independent of industry, with data drawn directly from what is reported on/alongside a product, across a comprehensive annual collection of products. However, the paucity of information available to consumers and for independent or government monitoring highlights the need for improved labelling to facilitate assessments of any future action on trans fats.

5a. Food manufacturers- what reformulation activities have you undertaken in the last 10 years to reduce the use of trans fats/partially-hydrogenated vegetable or fish oils?
5b. Food manufacturers- What has been the impact of cooking oil price increases and supply shortages on your products? What alternate oils are being used?

We advise caution when evaluating claims made by the food industry about efforts to voluntarily reduce the use of industrially-produced trans fats in their products or the costs of any future potential actions. The evidence review referred to in the options paper specifically states “there has been no consistent trend of reduction [in trans fats content] in surveyed product categories over the previous decade [to 2017]” (8).

There may be potential to use the FoodSwitch (Australia) and Nutritrack (New Zealand) databases to independently assess reformulation over time, however this is limited to products which voluntarily declare trans fats content and/or the use of partially-hydrogenated oils.

As noted in the options paper, the WHO has reported that replacing partially-hydrogenated oils with healthier oils does not increase costs. International experience has demonstrated that the potential costs borne by food manufacturers of complying with mandatory action are minimal and would not place undue burden on the industry (9).

Further, international action on trans fats is well-advanced, with over 50 countries having implemented a WHO best practice policy and dozens more applying other measures (10), and it is likely that restrictions will continue to be introduced globally. This suggests that the global production of partially-hydrogenated oils will inevitably decrease and eventually be phased out, which may raise the costs of partially-hydrogenated oils to businesses continuing to use them in the interim.

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

The George Institute strongly recommends the removal of all industrially-produced trans fats from the Australian and New Zealand food supplies. As such, we recommend that "or reduced as much as possible" be deleted from the draft objective to confirm its ambition. That is, we support the following objective:

> "Industrially-produced trans fats have been eliminated from the food supply in Australia and New Zealand to support all population groups to minimise consumption of trans fats."

The George Institute recommends that elimination, rather than reduction, of industrially-produced trans fats be the explicit goal, for the following reasons:

1. There is no safe level of trans fats consumption, therefore elimination offers optimal level of health protection to the population;
2. Elimination of industrially-produced trans fats aligns with World Health Organization policies and recommendations (11, 12), as well as commitments made by almost every other high-income country and many low- and middle countries (10); and
3. Elimination been demonstrated as feasible, cost effective and equitable in many comparable countries (9, 13).

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

As only the final two options (regulatory limits for industrially-produced trans fats, prohibition on use of partially-hydrogenated oils) are recommended by WHO to reduce the harm caused by trans fats, as noted in the options paper, these are the only two options that should be considered further. It is inappropriate to consider options that facilitate the continuing disease and early death caused by industrially-produced trans fats.

8a. Are the risks and limitations associated with the status quo described appropriately?
8b. Are there additional risks that have not been identified?

As identified, the most serious risk is that industrially-produced trans fats will continue to be present in the Australian and New Zealand food supply, meaning consumption and the associated burden of disease will continue. There is also the potential for trans fats content and intakes to worsen, for example should Australia become a dumping ground for products

that cannot be sold elsewhere due to their trans fats content or manufacturers increasingly choose to use oils containing industrially-produced trans fats.

One risk not identified is posed by the ongoing strong international action on banning industrially-produced trans fats (10). As other countries reduce and entirely eliminate industrially-produced trans fats, this could adversely affect the ability of Australia's and New Zealand's food industry to export, the reputation of Australia's and New Zealand's food sector, and ultimately Australia's and New Zealand's leadership in other food- or health-related issues. This concern is particularly relevant when this option does not align with WHO best practice.

9a. Are the risks and limitations associated with Option 6.2 [voluntary reformulation] described appropriately?
9b. Are there additional risks and limitations that have not been identified?
9c. Food manufacturers- How likely are you to be involved in this voluntary reformulation program? How many products are likely to be reformulated?
9d. Food manufacturers- how would this option impact you (include cost estimates where available)? What would be a suitable time frame for this option to be implemented in your organisation.
9e. What implementation issues need to be considered for this option?

As identified, the most serious risk is that industrially-produced trans fats will continue to be present in the Australian and New Zealand food supply, meaning consumption and the associated burden of disease will continue. There is also the potential for trans fats content and intakes to worsen, for example, should Australia becomes a dumping ground for products that cannot be sold elsewhere due to their trans fats content or manufacturers increasingly choose to use oils containing industrially-produced trans fats.

One risk not identified is posed by the ongoing strong international action on banning industrially-produced trans fats (10). As other countries reduce and entirely eliminate industrially-produced trans fats, this could adversely affect the ability of Australia's and New Zealand's food industry to export, the reputation of Australia's and New Zealand's food sector, and ultimately Australia's and New Zealand's leadership in other food- or health-related issues. This concern is particularly relevant when this option does not align with WHO best practice.

We note that this option would require robust, comprehensive and independent monitoring to assess impact, which will be difficult to establish otherwise due to reliance on self-reporting and convenience sampling, identified issues with labelling (nutrition information panel, ingredients list), and/or cost of chemical analyses to conclusively determine trans fats content (whether borne by industry or government).

We advise caution when assessing industry preferences for options to reduce trans fats. In particular, voluntary efforts to improve the quality of the food supply have been shown to be limited. This includes international experience with trans fats reduction (13) and, in the Australian and New Zealand context, the low and inconsistent uptake of the Health Star Rating system and its impact on product reformulation (14, 15).

10a. Are the risks and limitations associated with Option 6.3 [regulatory limit for industrial TFA content] described appropriately?
10b. Are there additional risks that have not been identified?
10c. Food manufacturers- how would this option impact you (include cost estimates where available)? How many SKUs would be affected? What would be a suitable time frame for this option to be implemented in your organisation?
10d. What implementation issues need to be considered for this option?
10e. Food manufacturers- what oils you most likely to use in place of partially hydrogenated oils?

This option, when mandatorily implemented overseas, has proven to be effective and cost-effective in reducing trans fats content (9, 13). In addition, international evidence shows that combined trans and saturated fats content decreased or at least did not worsen post-implementation (13); however, even if saturated fats were to replace trans fats, saturated fats are unequivocally much less dangerous to human health than trans fats (4, 16). Further, we advise caution when assessing industry preferences for options to address trans fats.

Compared to option 6.4 (prohibition of use of partially-hydrogenated oils), this option may pose additional complexities and be more burdensome on both industry and government. There are increased difficulties with monitoring and enforcement, given the inability to distinguish between industrially-produced and natural/ruminant trans fats through chemical analysis, although companies could be required to retain detailed information on the composition of their products and recipes to support monitoring. This option would also impact smaller businesses to a greater extent, compared to a prohibition on partially-hydrogenated oils.

Additionally, we are concerned about potential interference with the limit set. Any moves to adopt a less-than-optimal, above-WHO-recommended level (as seen with, for example, the Australian Healthy Food Partnership (17-20)) would undermine the effectiveness of this option. Delayed, prolonged or stepped implementation also allows harm to continue.

However, this option, if mandatory, comprehensive and rigorous, would protect the export capacity and reputation of Australia's and New Zealand's food sector. As noted in the options paper, the WHO has reported that replacing partially-hydrogenated oils with healthier oils does not increase costs to the consumer, while international experience has demonstrated the costs of complying with mandatory action to be minimal (9).

There may be potential to use the FoodSwitch (Australia) and Nutritrack (New Zealand) databases to independently assess reformulation over time, however this is limited to products that voluntarily declare trans fats content and/or the use of partially-hydrogenated oils.

11a. Are the risks and limitations associated with Option 6.4 [prohibit use of partially-hydrogenated oils] described appropriately?
11b. Are there additional risks that have not been identified?
11c. Food manufacturers- how would this option impact you (include cost estimates where available)? How many SKUs would be affected? What would be a suitable time frame for this option to be implemented in your organisation.

11d. What implementation issues need to be considered for this option?
11e. Food manufacturers- what oils you most likely to use in place of partially hydrogenated oils?

This option, when mandatorily implemented overseas, has proven to be effective and cost-effective in reducing trans fats content (9, 13). In addition, international evidence shows that combined trans and saturated fats content decreased or at least did not worsen post-implementation (13); however, even if saturated fats were to replace trans fats, saturated fats are unequivocally much less dangerous to human health than trans fats (4, 16). Further, we advise caution when assessing industry preferences for options to address trans fats.

This option will be relatively easier to implement and monitor and is more targeted than a limit on trans fats content. If mandatory, comprehensive and rigorous, it would protect the export capacity and reputation of Australia's and New Zealand's food sector. As noted in the options paper, the WHO has reported that replacing partially-hydrogenated oils with healthier oils does not increase costs to the consumer, while international experience has demonstrated the costs of complying with mandatory action to be minimal (9). Delayed, prolonged or stepped implementation allows harm to continue, however.

We suggest that the potential for products to not be able to reformulate and thus be removed from the market, as identified in the options paper, is not a risk – any outcome that ensures products with industrially-produced trans fats are not available for sale is positive for the health and wellbeing of Australians and New Zealanders.

There may be potential to use the FoodSwitch (Australia) and Nutritrack (New Zealand) databases to independently assess reformulation over time, however this is limited to products that voluntarily declare trans fats content and/or the use of partially-hydrogenated oils.

12. Do you agree that these options should not be pursued further?

We recommend, alongside any option, that labelling requirements be updated to mandate the inclusion of trans fats in the nutrition information panel and/or that any process altering the fatty acid content of any ingredient, and the extent of that processing, be specified in the ingredients list. While improved labelling is necessary for effective monitoring of any of the options outlined in the options paper, the appropriate labelling that should be implemented depends on the option/s followed. The inclusion of trans fats in the nutrition information panel (as recommended by the final report of the Blewett review, "Labelling Logic", in 2011 (21)) will be of more direct use, but may be more difficult and expensive to quantify and therefore burdensome on industry and government. However, the inclusion of a specific reference to a process that changes fatty acid content should be far simpler for industry to implement, assuming they possess information on the ingredients they use, although by itself this does not provide sufficient insight into the trans fats content of a product. A positive additional option could be to restrict claims that refer to the trans fats content of a product, whether explicitly or not, to products that do not contain partially-hydrogenated vegetable oils, to ensure that products that contain industrially-produced trans fats do not display a relevant claim.

If the use of partially-hydrogenated oils is prohibited, a tax on trans fats content should not be considered further, while import restrictions should apply in this case anyway.

If a compositional limit is applied, import restrictions and a tax on trans fats content should be adopted, even if implementation is difficult.

If the voluntary option is selected, then import restrictions and tax on trans fats content should be adopted, even if implementation difficult, and education campaigns will also be essential.

None of these four options, either in isolation, in combination with each other or in addition to a voluntary reformulation program, would achieve the same level of health protection as the mandatory options outlined in the options paper (trans fats limit, ban on use of partially-hydrogenated oils) (9, 13).

13. 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.

We strongly agree with the analysis of the options, noting that:

- A voluntary reformulation program will not address problems with trans fats content and consumption, but is merely an enhanced status quo that will continue to see preventable disease and early death from industrially-produced trans fats
- While a trans fats content limit is likely to be effective, there are some additional complexities with implementation and monitoring compared to a ban on the use of partially-hydrogenated oils
- A complete prohibition on the use of partially-hydrogenated oils in all settings will be effective and easier for government and industry to implement and monitor, and is also better targeted at industrially-produced trans fats

Significant international experience proves that food manufacturers have been successful in reformulating under mandatory arrangements, that this has been more effective than voluntary efforts, and is also cost-effective and equitable (9, 13).

14a. Do you agree with the description of the possible benefits associated with the proposed options?
14b. Are there additional benefits associated with all or some of the proposed options that have not been captured? Please provide references for your response.

We are not aware of any other Australian or New Zealand health outcomes data. However, we suggest that significant benefits would accrue to people, governments and the food sector:

- For people and for governments – reduced health service use, reduced expenditure on health services, improved productivity.
- For the food sector – under a mandatory option, a level-playing field will ensure fairer competition by improving the information available to competitors and consumers

and minimising externalities caused by the inclusion of ingredients that produce industrially-produced trans fats.

There is international evidence of the effectiveness and cost-effectiveness of mandatory action on trans fats (9), with greatest impact seen amongst lower socioeconomic groups (13), who have higher intakes in Australia and New Zealand as noted in the options paper. However, there will be significantly fewer benefits, if any, under a voluntary approach.

Options exist to quantify benefits further, using similar methods to the Marklund et al. paper referenced in the discussion paper (22). Other alternatives include the New Zealand Treasury's CBAx tool that can quantify aspects not traditionally considered in cost-benefit analyses (23).

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

We note that the implementation of a non-mandatory and/or sub-optimal approach would continue inflicting costs on individuals and governments in terms of adverse health outcomes, expenditure, service use and decreased economic activity. The costs associated with the status quo or an option that does not provide the maximum level of health protection must be quantified and reported in any future assessments. In addition, competition within the food industry will continue to be distorted, with companies choosing to continue to use partially-hydrogenated vegetable oils unfairly advantaged.

Options exist to quantify costs further, using similar methods to the Marklund et al. paper referenced in the discussion paper (22). Other alternatives include the New Zealand Treasury's CBAx tool that can quantify aspects not traditionally considered in cost-benefit analyses (23).

We advise caution when assessing industry self-reporting, particularly when evaluating claims made about the costs of any future actions. International evidence suggests that costs to industry and government of a mandatory option are likely to be minimal (9).

16. What do you consider to be the preferred policy option(s) to recommend to Food Ministers? Please explain your rationale.

We strongly recommend that a complete prohibition on the use of partially-hydrogenated oils in all settings be implemented. We agree with the analysis and conclusion presented in the options paper, that "prohibiting use of partially-hydrogenated oils (Option 6.4) has the greatest potential to achieve the objective", and consider that this must be the preferred policy option recommended to Food Ministers. This is unambiguously the best option to meaningfully reduce and ultimately eliminate intake of industrially-produced trans fats in Australia and New Zealand. It offers the maximum level of health protection, will best meet the desired outcome, aligns with best practice, and has been readily implemented around the world.

The second-best option is a mandatory limit on trans fats content, which has also proven to be effective internationally. However, we note that this option will be more difficult to implement and monitor than a ban on partially-hydrogenated oils.

We do not support the status quo or a voluntary reformulation program, as neither will meaningfully reduce industrially-produced trans fats content and intakes in Australia and New Zealand.

17. Do you have any other comments on this document?

We commend Food Ministers and the Food Regulation Standing Committee for their commitment to removing industrially-produced trans fats from the Australian and New Zealand food supplies, which will save lives. The options paper is well-evidenced, with its analysis of the options and conclusions clear and objective. The way forward is now obvious – mandatory action, in line with WHO recommendations, must be taken. We are already significantly behind other countries' efforts; only Australia, New Zealand, Japan and South Korea remain amongst high-income countries that have not taken effective action on trans fats, while many low- and middle-income countries have successfully introduced best practice policies (10).

Mandatory action has proven to be effective, cost-effective and equitable in many settings around the world. A complete prohibition on the use of partially-hydrogenated oil in all settings will be easy for industry to implement and government to monitor. A limit on trans fats content, set to the WHO-recommended level of 2% of total fats content, is a suitable second option but will be more difficult to implement and evaluate. Voluntary reformulation options will not achieve the same level of health protection and cannot be supported.

While the harm caused by industrially-produced trans fats to people in Australia and New Zealand is of paramount importance, it is also useful to consider the impact on industry of no or insufficient action. Persisting trans fats content, actual or potential, will damage Australia's and New Zealand's exports and the reputation of our food sectors. In 2015 the United States Food & Drug Administration determined that the use of partially-hydrogenated oils in foods is "no longer Generally Recognized as Safe" and their use has been banned (24), while explanatory text around a draft final regulation clarifying that partially-hydrogenated oils cannot be used in foods states that the measure is "noncontroversial given the public health risks associated with [partially-hydrogenated oils] and the increasing use of [partially-hydrogenated oils] alternatives" (25). Australian and New Zealand exporters of products containing partially-hydrogenated oils will increasingly face the objective, universally-agreed fact that partially-hydrogenated oils are poisonous to humans, meaning that their products will not be permitted in progressively more markets.

Ultimately, Australia's and New Zealand's leadership and efforts in other food- or health-related issues may be detrimentally affected, were the clear evidence and best practice recommendations to be ignored and the sale of products containing this harmful ingredient continued.

International experiences in trans fats reduction provide critical context. Mandatory policies have been readily implemented by other countries, despite industry opposition, and reductions in and total eliminations of industrially-produced trans fats have been demonstrated. International experience shows this can happen quickly (i.e. over a period of 2-3 years), and many of the multi-national companies operating in Australia and New Zealand will have already faced mandatory action elsewhere, indicating the potential for relatively rapid implementation here. Any further delays in introducing effective action means people will consume these harmful products, get sick and die.

Throughout our submission we have raised concerns with industry self-reporting of data and potential claims in favour or opposition to various options. Many actors in the food industry will be inherently conflicted in their approach to the issue of trans fats reduction, regardless of whether they must act in response to mandatory action on trans fats, given priorities which may not align with people's health and wellbeing. Private sector conflicts of interest in policy development, implementation and monitoring undermine effective public health action (26-28). The exclusion of conflicted industry players from processes which could undermine the success of public policy in realising or protecting public health and wellbeing should be implemented by governments in Australia and New Zealand as best practice (29).

Monitoring that is independent of industry is essential to ensuring public health is protected. While there is potential for the Branded Food Database being developed by FSANZ to be used for monitoring of action on trans fats, there are significant concerns with its comprehensiveness, currency and reliability. The FoodSwitch (Australia) and Nutritrack (New Zealand) databases are independent and include a comprehensive annual collection of products, though are limited by what is voluntarily declared by food companies about the trans fats content of, or ingredients that potentially contain industrially-produced trans fats in, their products.

Regardless, some key insights can be drawn from the information that is and is not made publicly available by food companies on pack. Based on the recent analyses undertaken by the George Institute for Global Health and the University of Auckland to understand trans fats content and labelling, included in our respective submissions:

1. A comprehensive, objective understanding of the trans fats content of foods in Australia and New Zealand is extremely difficult due to deficiencies in labelling (both in the nutrition information panel and ingredients list)
2. Where it has been possible to assess trans fats content, drawing upon voluntary declarations on products, the situation is concerning – 38% of these products exceed the 2% of total fats limit specified in the WHO best practice policy in Australia
3. Some companies may be disguising known or potential industrially-produced trans fats content – in addition to products that declare trans fats content, 3660 products (13% of total) in Australia potentially contain hidden industrially-produced trans fats, as identified through ingredients lists

Please contact us and the University of Auckland if there are any questions about the data and analyses included here or if further, more detailed results would be useful. While some questions in this consultation were identified as for food manufacturers to respond to, we possess and have responded with relevant data as appropriate.

Enforcement is also critical. Governments must not just be able to identify non-compliance, but also act on it to ensure positive outcomes from the introduction of any policy. Any deficiencies in enforcement, including hesitation to apply significant sanctions in cases of repeated, intentional or egregious non-compliance, will only allow harm to continue to be caused.

Finally, there is some evidence that high-temperature cooking with and/or extending heating of oils can create or increase trans fats content (30). Governments in Australia and New Zealand should consider providing advice around maximum cooking temperatures and prolonged or re-use of cooking oils to further minimise trans fats intake, as per other countries.

Contact

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