

**SUBMISSION TO THE AUSTRALIAN  
SENATE - SELECT COMMITTEE ON  
AUSTRALIA'S FOOD PROCESSING  
SECTOR**

INQUIRY INTO AUSTRALIA'S FOOD  
PROCESSING SECTOR

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**SA GOVERNMENT SUBMISSION**

**October 2011**

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## Introduction

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The South Australian Government welcomes the opportunity to make the following submission to the Commonwealth Senate Select Committee on Australia's Food Processing Sector inquiry into Australia's Food Processing Sector.

On 24 March 2011, the Senate referred the following matter to the Senate Select Committee on Australia's Food Processing Sector for inquiry and report.

Terms of reference – That a select committee, to be known as the *Select Committee on Australia's Food Processing Sector* be established to inquire into, and report by 30 June 2012 on the following matters:

- (a) *the competitiveness and future viability of Australia's food processing sector in global markets;*
- (b) *the regulatory environment for Australia's food processing and manufacturing companies including but not limited to:*
  - (i) *taxation*
  - (ii) *research and development*
  - (iii) *food labelling*
  - (iv) *cross-jurisdictional regulations*
  - (v) *bio-security, and*
  - (vi) *export arrangements*
- (c) *the impact of Australia's competition regime and the food retail sector, on the food processing sector, including the effectiveness of the Competition and Consumer Act 2010;*
- (d) *the effectiveness of anti-dumping rules;*
- (e) *the costs of production inputs including raw materials, labour, energy and water;*
- (f) *the effect of international anti-free trade measures;*
- (g) *the access to efficient and quality infrastructure, investment capital and skilled labour and skills training; and*
- (h) *any other related matter.*

The reporting date is **30 June 2012**

The South Australian Government wishes to make specific comment on terms of reference: (b) and (h).

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## Key Messages

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The key messages that the South Australian Government would like the Select Committee on Australia's Food Processing Sector to note are:

1. The South Australian Government is committed to meeting its public health objective of ensuring food is safe for the community and supports a regulatory framework that provides greater certainty, clarification of responsibilities as well as a national approach to develop "deemed to comply" provisions (or equivalent) within outcome based standards suitable for use by jurisdictions and the Australian food processing and manufacturing sectors.
2. The South Australian Government recognises the vital role of the processed food sector in supplying foods and beverages that comprise the majority of diet for Australians, however notes that regulatory environments, such as taxation and food labelling, will need to be balanced with the imperative to address population health, in particular the increasing problem of obesity and specifically the need to protect children from the marketing, advertising and exposure to unhealthy food.
3. As signatories to the Council of Australian Governments' National Partnership Agreement on Preventive Health, the South Australian Government will continue to work with the Commonwealth Government and other key stakeholders to build on its significant investment to improve nutrition and combat obesity, and notes that evidence from combating other public health problems such as tobacco smoking, indicates that the suite of strategies required to address obesity are likely to include policy, statutory regulation and taxation/pricing strategies.

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## Addressing the Terms of Reference

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### INQUIRY INTO AUSTRALIA'S FOOD PROCESSING SECTOR

- (a) the regulatory environment for Australia's food processing and manufacturing companies including but not limited to:
- (i) taxation
  - (ii) research and development
  - (iii) food labelling
  - (iv) cross-jurisdictional regulations
  - (v) bio-security and
  - (vi) export arrangements
- The South Australian Government remains committed to meeting its public health objective of ensuring food is safe for the community whilst using minimum effective regulation.

- The South Australian food industry is predominately made up of small to medium sized enterprises (SMEs). For this reason South Australia supports a regulatory framework that provides certainty and information for food businesses.
- The South Australian Government recognises the need to coordinate regulatory resources and has Memoranda of Understanding (MOUs) in place between key agencies.
- SA Health has recently revised its MOU with Local Government in relation to activities under South Australia's *Food Act 2001*. The MOU clarifies responsibilities and commits the two levels of Government to work together to improve food safety and the application of the Food Act.
- In South Australia, food labelling and composition (Chapters 1 and 2 of the Food Standards Code) are the responsibility of the Department of Health rather than the 68 local councils to facilitate consistency of monitoring and enforcement across the State. Local councils are responsible for the monitoring and enforcement of the national food safety standards (Standards 3.2.2 and 3.2.3) in their areas.
- Under the MOU with Local Government, a work program is being established under an agreed model that recognises the need for accountability, consistency and transparency for food regulators. Key areas of work identified for the program include:
  - Improving consistency in the application of the legislation
  - Implementation of a risk based approach to inspections
  - Professional development and support to food inspectors
  - Improving data collection and management to enable targets to be set for resources and consistency.
- The activities of the program aim to provide food businesses with greater clarity and consistency from food regulators.
- Prescriptive standards may provide greater certainty and information to businesses, which is especially valued by SMEs. However, prescriptive standards can limit flexibility, prevent adoption of new technologies and lead to regulatory overload, with managers and workers adopting a minimum compliance mentality. They can also impose costs without the desired improvement in outcomes.
- In contrast, outcome-based standards give businesses much greater flexibility in how they will meet regulatory requirements. They are usually valued highly by larger enterprises which may find significant cost savings by discovering innovative ways to deliver mandatory outcomes.

- This greater flexibility comes at the price of some uncertainty both in terms of what inspectors or auditors will accept as compliant and likely outcomes if prosecuted. In commenting on the nature of the regulations contained in the Australia New Zealand Food Standards Code, SA Health stated in its submission to the Productivity Commission:
  - *“The majority of food businesses in South Australia are small and medium enterprises (SMEs) who struggle [to understand and meet] the outcomes based nature of many standards. As these outcomes based standards do not include ‘deemed to comply’ provisions [that incorporate codes of practice or other prescriptive requirements] SA Health must provide considerable assistance.”<sup>1</sup>*
- The Productivity Commission concluded that “The inclusion of ‘deemed to comply’ provisions (or equivalent) within outcomes based standards is one way to gain the benefits provided by the certainty of prescriptive standards and the flexibility afforded by outcomes based standards. However, there are few examples of such provisions within food safety regimes of Australia and New Zealand”.
- There is a clear need for a national consistent approach to develop “deemed to comply” provisions (or equivalent) suitable for use by jurisdictions.
- The South Australian Government recognises the vital roles of the processed food sector in supplying the foods and beverages that comprise the majority of the diet for Australians, and the food system more broadly in influencing the types of foods available through agricultural production, food processing, distribution, retailing and food service.
- In recognition of the importance of the processed food industry, the South Australian Government notes that consideration of issues, such as taxation and food labelling will need to balance implications for the food industry and the imperative to address population health, in particular the growing problem of obesity and the need to protect children from the marketing and advertising of unhealthy food and beverages.
- The South Australian Government recognises that diet is a key factor influencing the health status of South Australians of all ages and in preventing and managing chronic diet-related diseases, and that poor diet is a key contributor to overweight and obesity, hypertension and hyperlipidaemia. The most recent SA Health data<sup>1</sup> shows that nearly 60 per cent of South Australian adults and 24.9 per cent of children are overweight or obese, up from an estimated 5 per cent in the 1960s<sup>2</sup> and that men have higher rates of overweight and obesity than women, 64.9 per cent compared to 53.9 per cent. Key dietary problems include excessive intakes of sodium, saturated fat, free sugars, energy (kilojoules) and inadequate intakes of bread and cereals, vegetables, fruits and dairy foods.

<sup>1</sup> Data taken from SA Health Surveys – South Australian Monitoring and Surveillance System; Health Omnibus: Women’s and Children’s Health Network health checks for four year olds; and three-yearly physical activity surveys. Numbers are based on ABS 2010 population projections, catalogue number 32220.

<sup>2</sup> National Preventative Health Taskforce Obesity Working Group (2008) Technical Report No 1: Obesity in Australia: a need for urgent action. Commonwealth of Australia.

- The South Australian Government notes that Australian research has shown that economic and taxation instruments and regulation, including statutory regulation, are effective strategies to combat poor nutrition and obesity. Reports on assessing the cost-effectiveness of preventive strategies have identified taxes on unhealthy food, mandatory salt restrictions on bread, cereals and margarine and restrictions on television advertising of unhealthy food to children as being cost-effective.<sup>3</sup>
- The South Australian Government commends the Commonwealth Department of Health and Ageing led Food and Health Dialogue that is engaging with the food industry to facilitate voluntary improvements to the nutritional profile of the food supply, however it notes the scope of this dialogue excludes food labelling and marketing. The South Australian Government, therefore, highlights that front of pack interpretive labelling is another strategy to inform the public about food composition and in conjunction with other strategies assists in changing purchasing habits, as well as manufacturers' product formulation as recommended by the Review of Food Labelling Law and Policy (2011)<sup>4</sup> and the South Australian Parliamentary Inquiries into Obesity (2004) and Fast Food and Obesity (2007).
- Several of the recommendations from South Australian Parliamentary Inquiries into Obesity (2004) and Fast Food and Obesity (2007) focussed on food composition and food labelling, including the following recommendations supported or supported in principle:
  - The Minister for Industry, Trade and Regional Development implements a review of point-of-sale information in and labelling by fast food franchises with a view to improving consumers' ability to make healthy choices
  - That the [SA] Minister for Health work within the Australia/New Zealand Food Regulation Ministerial Council to introduce a food labelling system similar to the British 'traffic light' system.
  - That the State Government encourage the Commonwealth to investigate establishing a system of incentives to support food processing businesses needing to upgrade their infrastructure or develop their products as part of a commitment to improve the nutritional content of their food products.
  - That the [SA] Department of Health work with the food industry and other relevant groups (e.g. the National Heart Foundation) to explore regulatory and incentive-based options that would reward substitution during the manufacturing process of energy-dense and nutritionally poor ingredients with healthier alternatives.
  - That the [SA] Department of Health encourage the Commonwealth to ban industrially produced trans fatty acids from all processed and packaged food. The Committee further recommends that until this ban takes effect, the [SA] Department of Health continue to encourage Commonwealth and other State Governments to modify the Food Standards Code to mandate the labelling of the trans fat content in food products.

<sup>3</sup> Vos T, Carter R, Barendregt J, Mihalopoulos C, Veerman JL, Magnus A, Cobiac L, Bertram MY, Wallace AL, ACE-Prevention Team (2010). Assessing Cost-Effectiveness in Prevention (ACE-Prevention): Final Report. University of Queensland, Brisbane and Deakin University, Melbourne.

<sup>4</sup> Labelling Logic – Review of Food Labelling Law and Policy, Commonwealth of Australia, 2011

- That the [SA] Department of Health work with the food industry to ensure that industrially produced trans fats are eliminated from food served in all eateries and food outlets including restaurants, cafes, bakeries and fast food outlets, by 2010.
- That the [SA] Department of Health work in partnership with the food service industry to examine ways in which the food portion size and the energy density of foods can be reduced to encourage healthier eating patterns. Strategies that discourage the promotion of supersized or oversized meal offers should be implemented.

**(h) any other related matter**

- The South Australian Government is committed to promoting the health and wellbeing of all South Australians. This commitment is outlined, for example in
  - *South Australia's Strategic Plan*<sup>5</sup>, which includes a target to reduce overweight and obesity
  - *South Australia's Health Care Plan 2007-2016*.<sup>6</sup>
- In addition, South Australia as a signatory to the Council of Australian Governments' National Partnership Agreement on Preventive Health, supports the targets to increase fruit and vegetable consumption and reduce levels of overweight and obesity.<sup>7</sup>
- The South Australian Government also notes key recommendations at international, national and State levels to improve the nutritional quality of the food supply, for example:
  - the World Health Organization's (2004) Global Strategy on Diet, Physical Activity and Health made specific recommendations to the food industry to:
    - o promote healthy diets ... in accordance with national guidelines and international standards and the overall aims of the Global Strategy
    - o limit the levels of saturated fats, *trans*-fatty acids, free sugars and salt in existing products
    - o continue to develop and provide affordable, healthy and nutritious choices to consumers
    - o consider introducing new products with better nutritional value
    - o provide consumers with adequate and understandable product and nutrition information
    - o practise responsible marketing that supports the Strategy, particularly with regard to the promotion and marketing of foods high in saturated fats, *trans*-fatty acids, free sugars, or salt, especially to children
    - o issue simple, clear and consistent food labels and evidence-based health claims that will help consumers to make informed and healthy choices with respect to the nutritional value of foods
    - o provide information on food composition to national authorities.<sup>8</sup>
  - the Preventative Health Taskforce's report to the Federal Health Minister (2009) included the following recommendation and four associated strategies:

<sup>5</sup> South Australia's Strategic Plan, 2011 - <http://saplan.org.au/> .

<sup>6</sup>Government of South Australia, 2007.South Australia's Health Care Plan 2007-2016 - <http://www.health.sa.gov.au/Default.aspx?tabid=247>

<sup>7</sup>COAG (2008), National Partnership Agreement on Preventive Health.

<sup>8</sup>WHO, 2004.[http://www.who.int/dietphysicalactivity/strategy/eb11344/strategy\\_english\\_web.pdf](http://www.who.int/dietphysicalactivity/strategy/eb11344/strategy_english_web.pdf)

Recommendation: Drive change within the food supply to increase the availability and demand for healthier food products, and decrease the availability and demand for unhealthy food products

- 1) *Develop and implement a comprehensive National Food and Nutrition Framework for the Australian food supply covering:*
    - Price, choice and access to food and food security through open and competitive markets
    - Achieving healthier diets
    - Food safety
    - Issues related to food production and agricultural policy that ensure a safe and environmentally sustainable food chain and food supply.
  - 2) *Commission a review of economic policies and taxation systems, and develop methods for using taxation, grants, pricing, incentives and/or subsidies to:*
    - Promote the production of healthier food and beverage products, including reformulation of existing products
    - Increase the consumption of healthier food and beverage products
    - Decrease the production, promotion and consumption of unhealthy food and beverage products
    - Promote healthy weight.
  - 3) *Examine and develop systems and subsidies that increase the availability of high-quality, fresh food for regional and remote areas, focusing on:*
    - Regional and remote transport
    - Increasing the production of high-quality, locally grown fresh foods that are available to the local community.
  - 4) *Drive change within the Australian food supply by establishing a Healthy Food Compact between governments, industry and non-government organisations to reduce the production and promotion of foods and beverages that are energy dense and nutrient poor, are high in sugar, fats, saturated fats and salt, and which contain trans fats, by setting targets for these nutrients.*<sup>9</sup>
- SA Health's *Primary Prevention Plan*<sup>10</sup>, *Aboriginal Health Care Plan*<sup>11</sup> and *Eat Well Be Active Strategy 2011-2016*<sup>12</sup> highlight the need to improve population diets to improve health and reduce the burden of preventable disease.

<sup>9</sup> National Preventative Health Taskforce 2009, Australia: The Healthiest Country by 2020 –National Preventative Health Strategy – Overview, Report to the Minister for Health and Ageing, Canberra.

<http://www.health.gov.au/internet/preventativehealth/publishing.nsf/Content/nphs-overview>

<sup>10</sup> Government of South Australia, 2011. Primary Prevention Plan 2011-2016 -

<http://www.sahealth.sa.gov.au/wps/wcm/connect/public+content/sa+health+internet/health+reform/south+australias+health+care+plan/priority+areas/primary+prevention+plan>

<sup>11</sup> Government of South Australia, 2010. Aboriginal Health Care Plan 2010-2016 -

<http://www.sahealth.sa.gov.au/wps/wcm/connect/public+content/sa+health+internet/health+reform/south+australias+health+care+plan/priority+areas/aborigina+health>

<sup>12</sup> Currently in draft form