



National
Retail
Association

**SUBMISSION TO THE
HEALTH & AMBULANCE
SERVICES COMMITTEE
(QLD PARLIAMENT)**

**HEALTH LEGISLATION
AMENDMENT BILL 2015**

**FAST CHOICES &
INDUSTRY AWARENESS**



About the National Retail Association

The National Retail Association (NRA) is Australia's largest and most representative retail industry organisation, servicing more than 20,000 stores and outlets nationwide. We are a not-for-profit organisation built on strong relationships with our members.

We exist to help retail and service sector businesses comply with an ever changing and growing regulatory environment. Our services are delivered by highly trained and well-qualified in-house experts with industry specific knowledge and experience. We provide professional services and critical information right across the retail industry, including the majority of national retail chains and thousands of small businesses, independent retailers, franchisees and other service sector employers.

Members are drawn from all of the sub-categories of retail including fashion, groceries, department stores, household goods, hardware, fast food, cafes and personal services like hairdressing and beauty.

The NRA has represented the interests of retailers and the broader service sector for almost 100 years. Our aim is to help Australian retail businesses grow.





Industry engagement for Fast Choices proposals

This submission is in response to the Health Legislation Amendment Bill 2015 (the Bill) regarding the introduction of kilojoule labelling in Queensland. It also contains further submissions and information pertaining to the challenges and suggestions for driving an effective education and awareness campaign in this industry area.

The NRA and other stakeholders made submissions in response to the Queensland Government's Fast Choices Consultation Discussion Paper. Most submissions supported recommendations to introduce kilojoule labelling and that the government lead an education and awareness campaign around any new menu labelling scheme.

To reiterate the NRA's previous submissions, the NRA broadly supports the Bill on two important provisos:

- That consistency is achieved with the NSW scheme (and the Bill appears to provide a high level of consistency, which is strongly supported); and
- That there is a government-led education and awareness campaign to provide adequate assistance to affected businesses (and those businesses that may wish to voluntarily opt in to such a scheme).

Industry structure is one challenge of engagement

In previous submissions to government, the NRA had originally estimated that there are around 2,550 'standard food outlets' (as per the proposed scheme criteria) located throughout Queensland, to whom this framework would apply, of whom over fifty percent are NRA members.

However, further and more detailed inquiries by the NRA into Queensland industry and the coverage of the NSW scheme suggest that this estimate significantly underestimated the scope of businesses covered by the scheme. The NRA has identified a further approximately 1,100 outlets located throughout Queensland, to whom this framework would apply.

It is important to understand that these stores and outlets cannot all be characterised as "large corporations". In fact, while many outlets are affiliated with large or well-known brands, the majority of outlets are actually franchisees or licensees – "mum and dad" owned and operated small businesses trying to utilise the scale and efficiencies of larger buying groups or marketing groups. There is not one business model involved in this sector, rather a range of differently structured organisations. In practice, franchisors, buying groups and licensors impose varying – sometimes minimal – levels of



practical control over franchisees or licencees in some areas of compliance, regulation or operations, according to the terms of each of their franchise or licence agreements or contracts.

Any attempts at industry awareness and education must recognise that the engagement required is not just with around 140 franchise or banner groups, but with the thousands of small business owners whose individual actions as owner-operators will significantly determine the success or failure of the aims of any scheme. Furthermore, if the government adopts the recommendations in some other submissions to expand the scope of the scheme to include smaller businesses than are covered in NSW, then potentially hundreds if not thousands more outlets will need to be included in the industry engagement.

Understanding industry perspectives is another challenge

There is some natural reluctance and even hostility in some areas of the industry regarding proposals for menu labelling schemes. Concerns can be broadly summarised as:

- the costs associated with compliance (explained in further detail below);
- concerns that any scheme will end up being inconsistent with the schemes implemented in other States and Territories, which seems to be reinforced given the recommendations in some other submissions to “show leadership” and introduce a scheme different to NSW;
- ongoing doubts in other jurisdictions about whether similar schemes have achieved real results in terms of influencing consumer behavior or health outcomes;
- concerns about lack of competitive neutrality, given some categories or types of outlet will be exempt from the proposed scheme; and
- the cost and cumulative burden of regulation generally for retail businesses, which was outlined in greater detail in NRA’s original submission.

In terms of the likely costs for businesses from a menu labelling scheme, these costs are not just from the testing of products and the printing, marketing and signage changes required to comply.

There are also considerations around the time and workforce associated with achieving and maintaining compliance, including the costs of ongoing audit activities.



Importantly, businesses will also incur costs for obtaining professional or legal advice around their compliance measures. The experience of our members in other states where schemes have been introduced is that these costs are unavoidable and are sometimes significant, because in practice there will invariably be areas of uncertainty, especially around any thresholds set in the regulations.

By way of simple example, the “ready to eat” definition in NSW required retailers to obtain advice on the different approach required for selling bread rolls individually versus packaged multiples, and the different approach needed for plain bread rolls versus bread rolls topped with cheese or similar. In the same way, businesses operating at the threshold for inclusion in the scheme will need advice, as will different types of business models including franchise arrangements, licence arrangements, sub-letting arrangements and retail businesses which are blurring the lines between food retailers and other categories of retail products.

There will also be concerns and sometimes costs for businesses that are not intended to be covered under the scheme, but whose size or activities or product range or future plans will lead them to seek advice on these issues. The NRA has identified a number of businesses that are not covered by any interstate schemes but are probably covered by the scheme being considered in Queensland.

Finally, of course, all of these challenges and costs will greatly multiply if a scheme is introduced that is different to the scheme existing in other states, particularly NSW.

It is well known that many businesses, especially in the owner-operator franchisee space, are currently struggling to maintain their margins and viability in the face of new economic challenges. It will be very important for these small businesses to learn that it is possible for them to manage their response to any scheme in a commercial way that minimises the impact on their business and margins.

It will also be important for any industry engagement to allow for consultation to occur in accessible, retail language that affected businesses will readily understand, empathetic of their commercial pressures and challenges.

Assistance should be provided that can answer the very specific questions and concerns impacted businesses are likely to have about practical operational matters. This includes how best to communicate the changes to customers in a customer service framework. It also includes the many product issues that will arise for different products or in different supply categories as a consequence of where the definitions and thresholds are set for compliance with the scheme. Support by way of access to professional advice should also be considered to assist businesses with their concerns and challenges around compliance, where appropriate.



Recommended industry engagement activities

If a menu labelling scheme is to be introduced in Queensland, the NRA would be keenly interested in collaborating with the government to ensure that businesses are made as aware as possible of the changes, the scheme's aims, the support made available, and all possible methods available for minimising negative impacts on their operations.

The NRA recommends that any industry awareness efforts should involve a genuine collaboration between the Department of Health and the broader industry including the small owner-operators running many of the outlets as well as the larger franchisors and other stakeholders with the experience and capabilities from which all other stakeholders can learn.

The NRA's research team estimates that there are more than 3,650 outlets located throughout Queensland, as well as their head offices either in Queensland or outside of the state, who should be included in industry awareness activities.

However, the NRA also believes that for the Queensland Government to best achieve its aims with this Bill, consideration should also be given to the dozen or hundreds of outlets who may not meet the thresholds in the Bill but may nonetheless wish to voluntarily opt in to a scheme such as this. Many business models in the food space are increasingly seeking to utilise nutritional claims to their customers as a point of difference for their products.

Based on extensive experience in running education and awareness campaigns in the retail sector across many other areas of compliance, especially when it comes to targeting smaller owner-operators, the NRA recommends the following critical elements of successful engagement:

- The provision of detailed resources and materials or tools (made available in hard copy as well as through online channels) including provided directly to impacted businesses;
- The availability of hotline support made during the transitional period to assist businesses with the operational and compliance challenges that arise;
- Hosting at least one forum or direct engagement workshops to allow for deeper collaboration between the Government, Queensland Health, industry representatives, affected businesses and other stakeholders, so as to provide a forum for deeper engagement including with head offices located outside of Queensland. A webinar could also be run, recorded and made available for businesses alongside the other information and resources being distributed on an online portal;



- Social media or traditional media content aimed at industry to drive industry compliance, as well as incidentally acting as education tools to consumers; and
- Consideration of solutions or resources for businesses who will cross the eligibility thresholds in the future due to business growth, or those that voluntarily opt in to participate in the scheme, which will be immediately subject to the proposed scheme.

This approach will ensure that all impacted businesses are contacted and that detailed information and resources are made available across sufficient channels to reinforce awareness across the board and to maximize education.

Proposed timeline

The NRA continues to be supportive of the 12 month timeframe recommended in the Discussion Paper.

Note that engagement with the retail sector is difficult in the period from mid-November to January due to the ramped-up activities in the lead up to Christmas and in the post-Christmas sales. Therefore, the NRA recommends that engagement activities commence from around February 2016.

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