

Five Year Review of the Health Star Rating system – Navigation Paper

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mpconsulting ™

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Chapter 1 – Context and purpose of this paper

In July 2017, mpconsulting was engaged to undertake a Five Year Review of the Health Star Rating system (the Review).

The Health Star Rating (HSR) system is a voluntary front-of-pack labelling scheme that rates the overall nutritional profile of packaged food and assigns it a rating from 0.5 to 5 stars. With a focus on processed packaged foods, the objective of the HSR system is: *To provide convenient, relevant and readily understood nutrition information and/or guidance on food packs to assist consumers to make informed food purchases and healthier eating choices.*

The Review will consider if, and how well, the objectives of the HSR system have been met, to identify options for improvements to and ongoing implementation of the system.

The Review will broadly consider:

- the impact of the system
- whether the system has successfully met its objectives, and
- if necessary, how the system, including but not limited to the algorithm, could be improved.

The Review will also consider communication, system enhancements, monitoring and governance.

The final Review Report will not be a consensus paper. Rather, it will make balanced and evidence-based recommendations to the Australia and New Zealand Ministerial Forum on Food Regulation (the Forum), through the Food Regulation Standing Committee (FRSC) and the Health Star Rating Advisory Committee (HSRAC), to inform the decision of the Forum regarding the future of the HSR system.

In order to inform the Review, to-date mpconsulting has:

- reviewed 483 stakeholder submissions. In October 2017, mpconsulting published a summary of the written submissions and this is available on the HSR website at: [summary of submissions to Five Year Review](#)
- considered research and monitoring data developed by the National Heart Foundation of Australia (Heart Foundation) and the New Zealand Ministry for Primary Industries (MPI)
- reviewed a wide range of primary references including relevant policy statements, research and guides (specific to the HSR and also relating to diet more broadly)
- reviewed materials provided by submitters
- met with the HSRAC and the Technical Advisory Group (TAG) including to observe operations and governance arrangements, and
- held teleconferences with a wide range of stakeholders including government, public health, academic, consumer and industry across Australia and New Zealand.

mpconsulting is now keen to explore, including through a series of public forums, some of the key issues that stakeholders have raised, and to consider in more detail suggested options to address these issues.

The purpose of this paper is to:

- provide background information about some of our findings to date, including some of the key issues for discussion as the Review progresses
- identify some principles by which to guide our consideration of any recommended changes to the HSR system
- provide transparency in terms of the messages we are hearing, the direction in which the Review is heading, the areas that we are not proposing to explore as part of the Review and the many issues that will require further consultation and discussion as the Review progresses, and
- provide further details about future consultation opportunities.

We recognise that in the conduct of the Review we will not always use the language of all stakeholders including because, in relation to some issues, various stakeholder groups use different language to express the same concept. This Review necessarily speaks to a broad range of stakeholders. We have therefore used commonly understood language and terms where possible. Noting this approach, please feel free to raise with us any concerns regarding substantive language issues.

We sincerely thank all stakeholders for their time and advice in contributing to the Review and look forward to speaking with many of you as the Review progresses.

Chapter 2 – Expectations and achievement of objectives

Expectations of the HSR system

Despite the objectives of the HSR system being relatively narrow, “to provide convenient, relevant and readily understood nutrition information and/or guidance on food packs to assist consumers to make informed food purchases and healthier eating choices”; the expectations of the system are significant.

Stakeholders have variously expressed to us that the HSR system should:

- achieve a sustainable public health outcome
- encourage consumers to eat:
 - five food groups in accordance with the Australian Dietary Guidelines (ADG) or four food groups in accordance with the New Zealand Eating and Activity Guidelines (NZEAG)
 - five serves of vegetables and two serves of fruit each day in Australia or three serves of vegetables and two serves of fruit each day in New Zealand
 - core rather than discretionary foods (noting that the NZEAG do not discriminate between foods in this way)
- be consistent with consumer expectations around food
- enable consumers to:
 - distinguish between whole foods and processed foods
 - compare across categories
 - select products based on their food preferences
- encourage reformulation (some consider that this should only be to reduce risk-related nutrients and not to increase positive nutrients, particularly where there is no evidence that population diets are lacking a specific nutrient), and
- focus on whole foods rather than on nutrients.

We consider that:

- some of these expectations can be achieved and will be pursued through the Review
- some of the expectations cannot reasonably be achieved through the HSR system. For example, the HSR cannot reasonably meet all consumer expectations nor reflect the level of processing of a food while still being consistent with the ADG and the NZEAG (noting that the dietary guidelines promote dairy and cereal, both of which are necessarily processed)
- for some of these expectations, a balance will need to be struck. For example, while it is reasonable to align, where possible, with the ADG and NZEAG, it will not be possible to align in all cases. This is because:
 - the ADG and NZEAG differ in some important areas
 - dietary recommendations differ for different subsets of the population based on gender and/or age, yet the HSR is primarily designed to apply to the general population
 - the ADG and the NZEAG are primarily food based recommendations, whereas the HSR is nutrient based
 - the ADG and NZEAG collectively comprise 280 pages of advice around weight, dietary patterns and recommended consumption of various food types. By contrast, the HSR reflects (in a simple panel on packaged foods) the result of nutrient profiling using an algorithm that incorporates risk-based nutrients and positive nutrients and scoring foods continuously (10 intervals between 0.5 and 5 stars). It is designed to enable quick and easy

comparison of the nutritional profile of similar packaged food. While it is unrealistic to expect the HSR to be able to reflect the nuance included in the ADG and NZEAG, we can make efforts to ensure the system is broadly consistent with the guidelines, and

- the HSR is only one tool to assist consumers to make dietary choices and is not designed to replace dietary guidelines, but rather to complement them.

Achievement of HSR system objectives

On the basis of the data we have reviewed to date (and consultations with stakeholders) the HSR appears to be providing *convenient, relevant and readily understood nutrition information on food packs*.

Some key data from the Heart Foundation and the MPI indicates that:

- most Australian and New Zealand consumers view the HSR as easy to understand (74% in Australia and 61% in New Zealand), easy to use (75% in Australia) and making it easier to decide which packaged foods are healthier (64% in New Zealand)¹
- consumer knowledge and understanding is improving
 - without prompting with possible responses, close to half of New Zealand shoppers (49%) provided comments that suggest an accurate understanding of the HSR². Similarly, in Australia there has been a significant increase in the number of shoppers who correctly understand the HSR (with 64% identifying that a product with one star is unhealthy or has little nutritional value and 89% identifying that a product with five stars is the healthiest choice³)
 - more than three in five Australians who bought a product with the HSR reported that it had influenced their product choice. One in two purchased a product they would not normally buy due to the presence of the HSR and close to nine in 10 of these shoppers said they would continue to buy the product³, and
 - In 2016, 19% of New Zealand shoppers used the HSR to help choose packaged food, with 57% of these shoppers reporting the HSR encouraged them to buy a product they do not usually buy. Half of shoppers in the general population said they are likely to use the HSR the next time they see it on something they are thinking of buying⁴.

We are aware that various studies have been undertaken by different bodies including by universities, food manufacturers and food retailers. The studies deliver similar results in the sense that they indicate that:

- awareness of the HSR is growing
- consumers prefer the HSR to other labelling systems, and
- the HSR graphic is easy to understand.

¹ New Zealand data is drawn from: *2016 Health Star Rating Monitoring and Evaluation Year One Follow-up Research Report*, Health Promotion Agency, January 2017 and Australian data is drawn from: *Report on the monitoring of the implementation of the Health Star Rating system: Area of Enquiry 2 – Consumer awareness and ability to use the Health Star Rating system correctly*, National Heart Foundation, August 2017

² *2016 Health Star Rating Monitoring and Evaluation Year One Follow-up Research Report*, Health Promotion Agency, January 2017

³ *Report on the monitoring of the implementation of the Health Star Rating system: Area of Enquiry 2 – Consumer awareness and ability to use the Health Star Rating system correctly*, National Heart Foundation, August 2017

⁴ *2016 Health Star Rating Monitoring and Evaluation Year One Follow-up Research Report*, Health Promotion Agency, January 2017

On the question of whether the HSR is *assisting consumers to make informed food purchases*, studies suggest that consumers are better able to accurately assess the relative healthiness of a packaged product (when comparing the HSR system to no front of pack labelling and relative to the Daily Intake Guide).

Some stakeholders have expressed concern that consumers are incorrectly using the HSR, for example, by not understanding that food should be compared within and not across a category. The Heart Foundation and MPI data also suggests that some consumers are incorrectly using the HSR and others have suggested that consumers may be selecting less healthy packaged products over fresh fruit and vegetables (however, we have not yet seen evidence to support this). Some early research is also suggesting that roll out of the HSR is driving healthier reformulation of some products.

We are conscious that this is a dynamic space, that monitoring is ongoing (with results shifting) and that studies about the impacts of the HSR are regularly published.

The Review will examine these matters in detail.

Uptake of the HSR system

In their report of October 2017, the Heart Foundation reported 3,231 products in FoodTrack displayed the HSR. This represents an increase on previous years, with 331 HSR products in FoodTrack in June 2015 and 1,919 HSR products in June 2016⁵. This data excludes products labelled using the energy icon only. In April 2017, the MPI reported 807 products displaying the HSR in the New Zealand Nutritrack Database at the end of April 2016, increasing from 39 at the end of April 2015⁶.

Based on discussions with companies, many are continuing to roll out the HSR and aim to have 80-100% of product coverage in the next year. However, some companies do not support the HSR and do not intend to implement the system. Reasons for not adopting the HSR system vary, including because:

- the algorithm does not take account of certain nutrients that would distinguish products as healthier, which some companies consider misleading for consumers (for example, some suggest that, by not taking account of wholegrain, brown rice products score the same as white rice products)
- certain companies already have strong dietary, nutritional and health credentials across their product range, such that they consider the HSR gives no added benefit to consumers, and
- for some companies, the lead time for getting the HSR on packaging is significant (at least 18 months), such that these companies want to see any issues with the HSR system resolved before adopting it.

⁵ Uptake was assessed using the retail food database FoodTrackTM. FoodTrackTM data is collected annually on a rolling schedule.

⁶ Uptake was assessed using the retail food database Nutritrack. Nutritrack data is collected in the first quarter of each year. Uptake of the HSR in New Zealand is limited to only those products displaying the Health Star Rating graphic (i.e. display of the energy icon only is excluded).

Still others are making decisions within their businesses about which products to prioritise for HSR labelling. Some are being influenced by the expectations of retailers especially around private brands, noting that some retailers are requiring contracted suppliers to display the HSR on all private label products.

While most stakeholders agree that wide uptake of the HSR is critical to support consumers to make choices within categories, not all stakeholders agree on the best way to achieve this. Some suggest the system must be mandated and others support the system continuing as voluntary (possibly enhanced by the setting of formal uptake targets to encourage further implementation by industry).

The Review will examine the uptake of the HSR and, where necessary, make recommendations as to how uptake could be improved. This will include considering the relative merits of maintaining a voluntary approach as opposed to mandating the system. Noting that, as with all other aspects of the Review, recommendations will be made to the Forum via the FRSC and the HSRAC.

Impact of the HSR system

While monitoring of the system enables conclusions to be drawn about whether the HSR system is meeting its objectives (*to provide convenient, relevant and readily understood nutrition information and/or guidance on food packs to assist consumers to make informed food purchases and healthier eating choices*), a separate but related question is whether the HSR is achieving a positive public health impact.

The HSR website⁷ explains the need for the system by reference to Australia's obesity rates and also notes that *'choosing foods that are higher in positive nutrients and lower in risk nutrients that are linked to obesity and diet-related chronic diseases; (saturated fat, sodium (salt), sugars and energy), will help contribute to a balanced diet and lead to better health'*.

We are not aware that any impact indicators (or target levels for the impact indicators) have been set in order to measure the overall public health impact of the HSR system.

Despite the challenges of outcome measurement for many public health initiatives, we are conscious that many stakeholders (including those investing in its management and governance) are looking for a 'return on investment' and for the HSR system to demonstrate a positive public health impact.

As part of the Review we will consider:

- the conclusions that can be drawn from existing monitoring and other data, and
- the most appropriate impact indicators for the future (taking into account what can reasonably be measured and attributed to the HSR system).

Continuation of the HSR system

Despite challenges in measuring the public health impact, most stakeholders support continuation of the HSR system and feel that the HSR, as part of an integrated system of other healthy eating

⁷ See 'About Health Star Ratings' on the Health Star Rating website ([Health Star Rating system](#)).

programs, has the potential to be a successful public health intervention by assisting consumers to make healthier choices when choosing packaged foods.

While there are a number of stakeholders who are critical of the HSR system, they have consistently advised that they consider that the HSR is worth continuing and that, with some changes, the HSR could be a more effective public health intervention.

Where stakeholders generally differ is the extent of the ‘tweaks’ they consider necessary to optimise the HSR system, the areas in which they think these tweaks need to be made and their perception of the impact of any such tweaks. For example, some stakeholders consider the central issue to be mandating the system (as if there was adequate uptake of the HSR, there would be public health benefits). Some consider that the main changes needed are around the algorithm, especially the treatment of both risk-related nutrients and positive nutrients. Some consider that by making changes across the HSR system (including to better align with the ADG and NZEAG and better enable consumers to select core foods over discretionary foods), greater progress will be achieved in terms of public health outcomes.

Based on the weight of support for continuation of the HSR and the results of early monitoring, it is likely that the Review will recommend the continuation of the HSR.

Our focus will be on: identifying how the HSR system complements and can be supported by other initiatives to achieve improved public health outcomes; any necessary or desirable changes to the HSR and related activities (for example, the HSR website and education on the HSR), and the appropriate ongoing monitoring and governance arrangements to inform recommendations for consideration by the Forum.

While we will consider adjustments that may be made to the HSR to improve the existing system, we will not be exploring alternative models such as traffic light labelling.

Chapter 3 – Our approach to identifying any HSR system changes

Context

The HSR system is underpinned by a six step process used to determine a HSR score and assign a rating to a food.

An algorithm assigns points based on the nutrient content of 100 grams (or millilitres) of a food. The algorithm considers the negative nutrients the dietary guidelines recommend eating less of (energy, saturated fat, sugars, salt) and positive nutrients the dietary guidelines recommend eating more of (fruits, vegetables, nuts and legumes and, in some instances, protein and dietary fibre). The HSR is calculated by balancing these negative and positive components of the food per 100 grams (or millilitres), with the algorithm adjusted for different categories of foods.

The HSR is designed so that all risk-associated (negative) nutrients have roughly twice the impact on final scores compared with the offset (positive) nutrients. Fruit, vegetable, nut and legume (FVNL) content must be over 40% of the total food before it can start counting towards health stars and improve the rating (25% for concentrated fruit and vegetable content).

Stakeholders have raised a very wide range of issues with the calculator, the rules that support the calculator and the outcomes of the calculator for specific foods.

Principles for examining these issues

In identifying possible options to address issues relating to the HSR rules and calculator, we will draw on the modelling and advice of the TAG and the HSRAC, along with the advice and evidence provided by stakeholders.

In collectively identifying preferred options, our focus will be:

What is likely to have the greatest positive public health impact taking into account the objectives of the HSR, how consumers are likely to use the HSR and how industry will be motivated to apply the HSR and reformulate products to reduce risk-associated nutrients?

Where elements of the HSR system are being reviewed (either because the system is not working as it should or we want to better pursue the above objectives), we will apply the following principles:

Principle 1 – Clearly articulate the problem to be addressed

- We will rigorously define the problem we are trying to address in order to identify the most effective solution.
- Where problems have been broadly expressed (such as ‘sugar’), we will seek to understand the underlying concern, what the problem is and how and why the problem (if any) manifests in the HSR system.

Principle 2 – Seek further alignment with the ADG and NZEAG wherever possible, noting the different focus of the ADG, NZEAG and the HSR

- The ADG are designed to address types of food, food groups and dietary patterns and classify food on a core or discretionary basis. The NZEAG similarly look at food groups and dietary patterns but do not focus on whether the food is core or discretionary.
- In contrast, the HSR is based on the nutrient profile of the product using an algorithm that incorporates risk-based nutrients and positive nutrients and scoring foods continuously (10 intervals between 0.5 and 5 stars). The HSR system is not intended to replace, but rather to complement dietary guidelines and related public health and education initiatives.
- To some extent, this means that absolute alignment is not possible because the ADG and NZEAG have different foci. Further, alignment is not always simple to achieve because some of the recommendations are gender and/or age specific and are not aligned across Australia and New Zealand.
- Where possible, we will seek to ensure that any changes further align with the ADG and NZEAG.

Principle 3 – Be evidence based

- In submissions and through our initial consultations, stakeholders have encouraged us to look at a range of data sets or research outcomes, with some suggesting that a particular data set or statement of findings is preferable to another.
- In undertaking the Review, we will consider the breadth and the quality of evidence presented (noting that opinion and the nature and scope of the evidence as to the operation of the HSR system will be considered appropriately).
- We will also ascertain what the data is telling us about the HSR system, noting that there may be many reasons for a particular result. For example, work done by NSW Health and the George Institute of Global Health suggests that 14% of discretionary foods score an HSR of 3.5 or greater. While the authors conclude this suggests the HSR is working well overall, other stakeholders suggest this is evidence that the HSR is failing. Further work is currently underway to investigate these ‘outliers’ and whether the problems are with the algorithm or the HSR, or with the ADG or the core/discretionary food divide. Some case studies in Chapter 4 identify potential issues for further investigation.

Principle 4 – Seek to apply a systems-based approach rather than finding ‘fixes’ for individual foods

- Sometimes, in consultation with stakeholders, people have used examples of individual foods to demonstrate that ‘the system is broken’ and requested that a solution be found to the specific product ‘problem’ to restore consumer confidence.
- While we acknowledge that there have been individual foods whose HSR does not align with consumer expectations resulting in concerns about the credibility of the system, we will work with the TAG, the HSRAC and stakeholders to identify the underlying issue at a system level (and options for addressing it) rather than seeking to resolve issues on a product-by-product basis.

Principle 5 – Maintain alignment with other programs and regulation where possible

- Where possible we will seek to align definitions or concepts with the Australia New Zealand Food Standards Code. For example, where there is a definition of wholegrain in the Food Standards Code, we would seek to use the same definition in the context of the HSR system unless there was a strong reason not to do so. Keeping definitions and concepts aligned (where possible) will minimise confusion and complexity.

Principle 6 – Seek to ensure that the system is as simple as possible

- It will be easier to achieve maximal uptake and compliance where manufacturers are motivated to apply the system and can readily understand the system. Likewise, a simpler system is better for consumers and nutrition educators.
- We will seek to avoid increasing complexity, and where possible will seek to simplify the system.
- We will also be mindful of impacts, knock on effects and potential disruptions across categories, resulting from any changes.

Principle 7 – Ensuring maximum discernment between like foods sold within the same category, and likely considered by consumers to be in the same category

- As noted previously, the HSR is designed to enable comparison within food categories.
- There are some foods that could be argued to fall in one or another category and this categorisation may affect the HSR. In considering how products are categorised, we will explore how consumers compare products when they shop. For example, because it requires freezing ice cream is generally displayed in a different part of the supermarket to dairy-based desserts and yoghurts (which are often displayed side-by-side in the chilled cabinet). These considerations could influence how such products are best categorised (also noting the relevance of other principles).

Principle 8 – Minimise irregularities while acknowledging that the elimination of all irregularities (perceived or otherwise) will not be possible

- There are some foods that are more widely eaten and contribute more to the overall diet (and public health outcomes), than other foods. There are also foods where the HSR is more likely to influence consumer behaviour or confidence (because of the profile of the product) and industry behaviour (in terms of reformulation). One example is breakfast cereal. Other products are eaten by fewer consumers, have less impact on the overall diet and are less likely to influence consumer confidence (than, for example, certain condiments).
- In identifying any changes to the HSR, we will target problems in areas of highest impact as a priority over system irregularities or issues in areas that have more limited impact.

Principle 9 – Continue to incentivise food manufacturers to decrease risk-associated nutrients (fat, salt and sugar)

- In considering changes, we will seek to identify options that incentivise food manufacturers to decrease levels of risk-associated nutrients (saturated fat, salt and sugar) in foods. We will also explore the circumstances in which it is appropriate to incentivise the use of positive nutrients.
- We will also seek to ascertain the extent of reformulation and test some of the concerns we have heard (including in relation to the addition of protein, fibre, etc. to certain products).

If, following the Review, the Forum agrees changes to the HSR rules and calculator, it is likely that some companies/products will benefit (through increased star ratings) and some will be adversely impacted (decreased star ratings).

The Review will also make recommendations regarding any necessary transitional arrangements, including those necessary to minimise market distortions and consumer confusion.

Process for examining these issues

We are conscious that the HSR system will not stand still for the Review, and that issues will arise through the course of the Review that will require advice from the HSRAC (and consideration of technical issues by the TAG). For example, at any time a person can request advice from the HSRAC (or seek adjustments to the system) in relation to a possible anomaly that occurs when a star rating is perceived to be inconsistent with the ADG or NZEAG, or when a star rating may mislead consumers when used to make comparisons within a food category. Decisions made by the HSRAC in relation to anomalies may intersect with or impact recommendations arising from the Review.

Likewise, there are issues that stakeholders have urged the HSRAC to resolve before the completion of the Review, such as the ‘as prepared’ issue. These issues will continue to be managed through the existing governance arrangements and, where appropriate, will be considered by the Forum in advance of its consideration of the Review recommendations.

Other issues relating to the HSR rules and calculator will be considered as part of the Review. In each case we will aim to clearly identify the problem, identify possible options consistent with the principles of the Review and describe the likely impacts of each option. This work will be informed by technical papers prepared by the TAG and the work of the HSRAC. Consultation papers will be developed incorporating the technical advice and circulated for stakeholder feedback.

To streamline the consultation process and minimise demands on stakeholders, it is proposed that the issues (particularly relating to the HSR rules and calculator) be canvassed in discussion papers to be released in May and July 2018 (noting that a discussion paper will also be released by the HSRAC in March relating to ‘as prepared’). The consultation process is discussed in more detail in Chapter 7.

Chapter 4 – Key HSR system issues to be explored

Key concerns relating to HSR application and scoring

Stakeholders have raised a very wide range of issues with the calculator, the rules that support the calculator and the outcomes of the calculator for specific foods.

Using the structure of the existing calculator as our guide, we have grouped the main concerns relating to the rules and the calculator into the following categories:

1. Concerns about the general focus and scope of the HSR. The main issues raised in this regard are:
 - a. Whether the HSR should more strongly orient around whether the food is core or discretionary
 - b. Whether the HSR should extend to packaged fresh fruit and vegetables
2. Concerns relating to the categorisation of foods or a specific category of food (Step 1 of the calculator). The main issues raised in this regard relate to:
 - a. Dairy foods (Categories 1D, 2D and 3D) (with the main concern being that the HSR scores some dairy food too low)
 - b. Oils and spreads (with the main concern being some core oils and spreads are scored too low)
3. Concerns about the form of the food for the HSR (Step 2 of the calculator). The main issue is:
 - a. The treatment of ‘as prepared’ foods
4. Concerns relating to the risk-associated (negative) nutrients considered in the calculator (to generate basepoints) (Step 3 of the calculator). The main issue is:
 - a. Whether the HSR appropriately deals with sugar (and whether the HSR should reflect added sugar)
5. Concerns about the positive foods or nutrients influencing modifying points (Step 4 of the calculator). The main issues are:
 - a. Whether wholegrains should be added as a modifying factor
 - b. Whether protein should be removed as a modifying factor
6. Concerns about the outcome of the calculator for specific foods, including:
 - a. Fruit juices (concern that juices should not score as highly as the fruit from which they are derived)

This Chapter provides further information about each of the issues and some of the options being considered. It also identifies some of the complexities and challenges posed. It is not intended to be a complete description of all issues under consideration nor a description of all possible options or impacts in relation to issues. Rather, this Chapter provides an insight into some of the issues being considered by the TAG, the HSRAC and mpconsulting when developing papers for further consultation.

While these were the main issues raised by stakeholders, other suggestions were made about how the algorithm could better align with the ADG and NZEAG or more appropriately calculate the HSR for a particular food or sub-category of food. For example, suggestions were made in relation to the treatment of salt, formulated supplementary foods, certain biscuits and unprocessed fruit.

A major focus of the Review as it relates to the HSR calculator will be: clearly articulating the problem (if any) underpinning the concerns expressed by stakeholders; identifying the extent of any of the problems; assessing the evidence provided that supports concerns raised; and identifying the options for addressing any problems (including changes to the rules and to the algorithm that give rise to the star rating for a food, within a category).

As is evidenced by the case studies below, the issues raised by stakeholders are complex and require proper consideration of a wide range of issues, informed by relevant evidence and by application of the principles described in Chapter 3. It is, however, recognised that:

- for some changes, the evidence may not be strong or will be conflicting
- in many cases a balancing of principles will be required, and
- compromises may need to be made to achieve the best outcomes.

Concerns about the general focus and scope of the HSR system

Scope of the HSR system

Various comments have been made regarding the scope of the HSR system and the relative merits of having it apply to packaged fresh food, particularly packaged fresh fruit and vegetables.

For example, some stakeholders suggest that the lack of stars on packaged fresh foods causes confusion for consumers and does not align with the ADG, which recommend eating a wide variety of nutritious foods from the five food groups, including vegetables and fruit.

Various ideas were expressed regarding how the HSR system could be extended to packaged fresh fruit and vegetables including: an automatic 5 star rating; a new 6 star rating; or a diamond (or other) logo developed for use specifically in association with packaged fresh fruit and vegetables (and potentially other fresh foods).

Other stakeholders:

- suggested that confusion arises because some fresh produce that is wrapped or packaged is currently displaying a HSR and this adds to consumer confusion over whether fresh products that are not wrapped are as healthy as the wrapped products. Some suggested prohibiting fresh products (including fruit and vegetables) from displaying the HSR, and
- considered that confusion derives from campaign messages such as ‘the more stars the healthier’ and ‘healthier is easier when you look for the stars’, which does not accurately position the HSR system in the context of healthy eating more generally. The scope of the HSR system could therefore remain as is, but the messaging around it be clearer.
 - A number of stakeholders also noted that a more comprehensive suite of tools designed to support healthy eating are currently under development including through the Healthy Food Partnership and other government initiatives.

Issues for consideration in relation to the scope of the HSR system include:

- whether consumers know that fresh fruit and vegetables are a healthy choice, even in the absence of HSR labelling
- if not, whether the HSR system is the best way to promote healthier eating, including consumption of fresh fruit and vegetables, and
- in any case, whether the HSR system should acknowledge that some packaged fruit and vegetables are already displaying the HSR and therefore whether a pragmatic decision could be taken about the treatment of such food.

In exploring these issues, consideration also needs to be given to the practical implications of any change. Some of the issues for consideration include:

- whether 5 stars is the appropriate rating for all packaged fresh fruit and vegetables (or only some)
- whether other packaged fresh foods should also display a HSR (such as fresh fish and meat) and, if so, whether those products should be able to achieve the same star rating as fresh fruit and vegetables
- whether a new category could be created for packaged fresh fruit and vegetables or whether fruit and vegetables would fall in Category 2 (including the impacts)
- the impacts on other categories, the maximum stars able to be achieved by frozen or canned fruit or vegetables, and the impacts on other core foods
- whether it would encourage packaging of products that would not otherwise be packaged
- if the product is not packaged, where the HSR should be displayed, and
- how consumers are likely to respond.

Regardless of whether any changes are made to the HSR system in relation to fruit and vegetables, further consideration could still be given to how to better promote healthy eating and the role that the HSR plays specifically in relation to packaged food.

Core and discretionary foods

As noted in Chapter 3, one of the principles of the Review is to seek better alignment with the ADG and NZEAG wherever possible.

One of the areas in which some stakeholders have urged greater alignment with the ADG is for the HSR system to better distinguish between core and discretionary foods. Some have suggested that the HSR could be complemented by a background colour of green for core foods and red for discretionary foods.

There are many issues associated with this proposal including:

- the challenges of superimposing a binary system (core/discretionary) over a system such as the HSR that is based on a continuum
- definitional issues in terms of defining core and discretionary foods
- the fact that the NZEAG do not use the core/discretionary approach
- the cost implications for companies that do not have green or red in their packaging colour palette, and
- reducing the incentives for reformulation of both discretionary and core foods.

To give an indication of some of the matters for consideration, the cases of coated fish and Greek style yoghurt provide useful examples at opposite ends of the spectrum (high-scoring discretionary foods and low-scoring core foods).

Coated fish

The Australian Bureau of Statistics (ABS) categorise coated fish as a discretionary food. In relation to fish, the ADG provide that people should choose fish and choose varieties that are low in salt and fat. Similarly, the NZEAG provide that people should enjoy a variety of nutritious foods every day including one serve of fish or other seafood, eggs, poultry or red meat.

On the one hand, it could be argued that because coated fish is a discretionary food it should not score above, for example, 3 stars. It has also been stated that if such discretionary foods score in excess of, for example, 3 stars, it demonstrates the system is not adequately aligned with the ADG and that discretionary food is not adequately penalised.

On the other hand, it could be argued that:

- some coated fish can meet the ADG where it is lean and low in salt and fat (such that it should not properly be categorised as a discretionary food), and
- it is for these foods exactly that the HSR provides useful information for consumers by enabling them to distinguish between healthier and less healthy choices within this sub-category (coated fish) (noting that there are significant differences in salt and fat between types and brands of coated fish).

Greek style yoghurt

In contrast, yoghurt is defined by the ABS as a core food and both the ADG and NZEAG recommend some milk and milk products, mostly low and reduced fat. The ADG and NZEAG also recommend that consumers limit their intake of food that is high in saturated fat, salt and sugar.

If the system were to be adjusted such that core foods always scored higher than discretionary foods, then yoghurt should theoretically score, for example, 3 stars or above. However, there are some yoghurts on the market that are made with cream, with a serving representing 28% of a person's daily intake of saturated fat (based on the Nutrition Information Panel). By awarding lower stars for these products, it could be argued that the HSR system is working because it is distinguishing foods based on their level of risk-associated nutrients, even where they are considered core foods.

It could also be argued that this is consistent with the ADG because in addition to encouraging consumption of yoghurt, the ADG suggests substituting high fat foods that contain predominantly saturated fats with reduced fat alternatives.

Concerns relating to the categorisation of foods or a specific category of food

Dairy Foods

The ADG support the inclusion of milk, cheese and yoghurt as core foods in a healthy diet because adequate intakes of these foods are linked to a reduced risk of several chronic diseases. Similarly,

the NZEAG recommend the consumption of milk and milk products (mostly low and reduced fat) because they are highly nutritious and contain protein, vitamins and minerals.

Both dietary guidelines recommend low and reduced fat varieties to reduce intake of saturated fat and total energy. The NZEAG recommend New Zealand adults eat or drink at least two servings of milk and milk products each day (noting that certain milk products do not fall within this category, such as butter, cream and products like cream cheese and sour cream, which are made from milk fat so have high levels of saturated fat and are low in protein and calcium). The ADG recommend Australian adults consume at least two and half serves of milk, cheese, yoghurt and/or alternatives (mostly reduced fat) per day.

Stakeholders have also noted that the Australian Health Survey 2011 – 2013 shows that nine out of 10 Australians do not consume their recommended serves of dairy each day.

The primary problem identified by some stakeholders in relation to dairy foods, is that the consumption of certain low-fat dairy products (in line with the ADG and NZEAG) is not adequately incentivised via the HSR (with some dairy foods scoring less than 3 stars).

For example, it has variously been suggested that:

- some products, such as yoghurt, that are categorised as a dairy food (Category 2D) receive a lower HSR than nutritionally similar dairy products that fall into Category 2 (all foods other than beverages, oils/spreads and certain dairy). One of the reasons for this is because Category 2 contains a wider range of nutritional profiles than Category 2D, and the smaller product range in Category 2D has had an impact on HSR differentiation within that category, and
- low scoring foods within the dairy food categories do not always align with the core/discretionary food classification, which should see core foods such as dairy score higher than discretionary foods.

There are a range of potential options for addressing these issues including reviewing category membership and associated rules (particularly around Category 2D (certain dairy foods) and Category 3D (cheese and processed cheese)) to include additional products in these categories, which would better ensure that the category spans the full range of star ratings (to allow maximum discernment between like foods within the same category). For example:

- Category 2D could include dairy desserts. This would require re-scaling of the category to achieve a better spread of HSR scores. In association with this, low calcium or otherwise soft unripened cheese which currently sits under Category 2D could be moved to Category 3D, or
- additional products such as ice cream, cream and cream cheese could be moved into Category 2D or 3D.

Each of the options have advantages and disadvantages and these will be articulated further in the discussion papers to be released in May or July. The discussion papers will include the results of modelling by TAG about the impact of various options.

In examining possible options, consideration will be given to:

- how any changes relating to dairy products might better align with the dietary guidelines (Principle 2), and
- ensuring maximum discernment between like foods sold within the same category, and likely considered by consumers to be in the same category (Principle 7).

Oils and spreads

While some issues are not significant to all stakeholders, they still warrant consideration as part of the Review. For example, some stakeholders have noted the wide range of HSR scores for core oils and spreads and have suggested that the HSR is not in line with the ADG because some core oils and spreads can score a relatively low HSR.

The ADG recommend replacing oils and spreads high in saturated fats with small amounts of oils and spreads high in poly and mono-unsaturated fats. The ADG also suggest replacing high fat foods that contain predominantly saturated fats such as butter, cream, cooking margarine, coconut and palm oil with foods that contain predominantly polyunsaturated and monounsaturated fats such as oils, spreads, nut butters/pastes and avocado.

Similarly, the NZEAG recommend consuming and/or preparing food and drink with unsaturated fats (canola, olive, rice bran or vegetable oil, or margarine) instead of saturated fats (butter, cream, lard, dripping, coconut oil).

Dietary intake data from the Australian Health Survey 2011-13 suggests that intake of saturated fat is higher than recommended and unsaturated fat, in particular polyunsaturated fat, is lower than recommended. Dietary intake data from the 2008/09 New Zealand Adult Nutrition Survey found that the median usual daily intake of saturated fat for New Zealand adults was 13% of total energy, exceeding the recommended 10% contribution of saturated fat to total energy.

Stakeholders have suggested that the wide range in HSR scores (from 2.5 to 4) for 'healthy' oils (including peanut, olive, sunflower and canola oil) is inconsistent with the ADG and NZEAG where all oils and spreads are treated the same. This range may suggest to consumers that a particular oil is significantly healthier than the others when this is not necessarily the case. For example, it could give consumers the impression that a 3 star oil such as olive oil is less healthy than a 4 star canola oil when these products are treated equally under the ADG and NZEAG.

Further, while the HSR algorithm differentiates reasonably well between fats and oils that are high in saturated fat and fats and oils that are low in saturated fat, the HSR values of some core oils and spreads are as low as those for discretionary products. Further, the range of HSR for core oils and spreads is wider than expected, given that these products are treated the same in the ADG and NZEAG.

One way that this could potentially be addressed would be to rescale the category upwards, to ensure better consistency of this category with the ADG and NZEAG (including to support the replacement of oils and spreads high in saturated fats with oils and spreads low in saturated fats).

The TAG will model this option (and other viable options) to identify the impacts in more detail. This analysis will be included in the discussion paper proposed for circulation in May 2018.

Concerns about the form of the food for the HSR

As prepared

Many stakeholders have raised concerns with the 'as prepared' rules. The current guidance allows items such as powdered soup, sauce mixes or drink flavourings (which are not intended to be consumed as sold and are intended to be prepared in some way prior to consumption) to display a HSR based on the product 'as prepared' according to the instructions on the product packaging. This enables these products, once prepared, to be reasonably compared with similar products.

However, some products may be prepared in multiple ways despite specific directions or instructions for preparation. It also means that the HSR of these products when 'prepared' can be substantially altered by the nutritional components of the suggested added ingredient(s). For example, the HSR can be improved when calculated on the meal as prepared with meat and vegetables as per the instructions on the pack.⁸ As a consequence, stakeholders have raised concerns that the HSR may not be representative of the way that the product is being prepared and consumed and may be misleading.

On the other hand, some stakeholders support the rules in their current form because: the rules are in line with the Food Standards Code; nutritional profiling of the product 'as prepared' can be a powerful driver to industry to encourage consumption of products in a manner that promotes good dietary habits (which better align with the ADG); changes to the 'as prepared' rules will result in a cost to industry; and the existing rules could be clarified for consumers through targeted education.

Because of the significant interest in the 'as prepared' rules, this issue has been progressed in advance of the Review. Consultation to date has included a public submission process (through which 74 submissions were received), the release of a discussion paper and workshops in September and October 2017 across three locations: Sydney, Auckland and Melbourne. Workshops were attended by a mix of industry, public health, consumer and government stakeholders.

As presented in the discussion paper, participants considered the pros and cons of four options to address the 'as prepared' issue in the context of the objectives and principles of the HSR system. Options included:

- Option 1 (status quo) – The 'as prepared' rules remain unchanged – products may display a HSR based on the product 'as prepared' according to the instructions on the product packaging.
- Option 2 (as sold) – The HSR is calculated on the product 'as sold'. The 'as prepared' rules would cease to exist.
- Option 3 (multiple HSRs on pack) – The HSR is calculated on the product 'as sold' and 'as prepared'. Multiple ratings are displayed on the pack with the 'as sold' rating being the most prominent on the pack.
- Option 4 (as sold with exemptions) - The HSR is calculated on the product 'as sold' but certain exemptions would apply and these would need to be clearly outlined in the guidance material. Exemptions to this option could include, but are not limited to:
 - specific products
 - rehydrated with water only, and

⁸ Discussion paper for face to face consultation September/October 2017 – *The form of the food ('as prepared') rules for the Health Star Rating (HSR) system*

- rehydrated with water only and drained.

While the outcomes of the workshops did not provide a consensus as to the appropriate model, stakeholders on the whole indicated that the ‘as sold with specific exemptions’ option was preferred and that further exploration of this option should be undertaken.

The TAG is currently modelling the option preferred by stakeholders to determine how potential modifications to the rules will change HSR values for ‘as prepared’ items and categories, including the impact of exemptions such as foods that are drained, rehydrated or diluted with water only. Further consultation on the outcomes of this work is proposed for March 2018. ‘As prepared’ will continue to be progressed by the HSRAC.

Concerns relating to the risk-associated nutrients

Sugar

Many stakeholders have raised the issue of sugar and, in particular, added sugar. Stakeholders have described the problem as inappropriately high ratings for some foods with relatively high levels of added sugar. Stakeholders referred to:

- certain breakfast cereals with added sugar levels of more than 25% obtaining ratings of 4 stars or more
- the system failing to adequately distinguish between added sugars and intrinsic sugars (noting that the ADG encourage consumers to limit their intake of food and drinks containing added sugars and suggest that limiting intake of food and drinks containing added sugars may improve health outcomes, including by reducing the risk of dental caries and assisting to address excess weight (noting that many foods containing added sugars are energy-dense but nutrient-poor))
- the World Health Organization (WHO) *Guideline: Sugars intake for adults and children, 2015*. Stakeholders noted that WHO:
 - recommends a reduced intake of ‘free sugars’ throughout the life course (strong recommendation)
 - recommends reducing the intake of free sugars to less than 10% of total energy intake in both adults and children (strong recommendation)
 - suggests a further reduction of the intake of free sugars to below 5% of total energy intake (conditional recommendation).

Those who suggested that the HSR system awarded inappropriately high ratings for some foods with relatively high levels of added sugars proposed a range of possible options for addressing this issue including:

- harsher penalisation of sugars in the calculator (across all or some categories)
- the use of added sugars rather than total sugars for the purposes of calculating the HSR baseline points
- creating sugar ‘caps’ within categories such that certain foods with sugar content greater than a certain percent could not score higher than 3 stars, or
- where sugar in a product is greater than a certain percent, modifying points not be allowed to be used.

Others did not share these views and instead noted that:

- the HSR already takes sugar into account in determining the HSR

- sugar sweetened beverages are the major source of free sugars in Australian diets and beverages were the major source of total sugars in New Zealand children's diets – the HSR generally attributes appropriate star ratings to these products (0.5 to 1.5 stars)
- there is no universally agreed definition for added sugars, with different definitions used in Australia, New Zealand and internationally (noting that the WHO uses the term free sugars and this includes sugars added to food as well as sugars in honey, fruit juice and fruit juice concentrates)
- added sugars are not chemically different to sugars naturally occurring in foods, which makes it difficult to distinguish between them using analytical models, and
- there are some studies (including a review commissioned by NSW Health in 2015⁹) that suggest while there is evidence to support concerns about levels of sugar intake in the form of sugar-sweetened beverages, there is insufficient evidence to support concerns regarding the added sugar content of otherwise nutritious foods (such as yoghurt, flavoured milk or breakfast cereal), beyond their contribution to overall kilojoule intake (noting that most of the evidence was from observational studies).

We are conscious that:

- much has been written about sugars
- use of and reference to 'evidence' in relation to sugar in the diet is confounded by the different ways in which sugar is framed. For example, contributions to total energy and hence overweight and obesity; physiological effects as a nutrient/carbohydrate; negative impacts related to dental caries; or an intrinsic component of whole food (for example, fruit)
- the evidence is strong in some areas, conflicting in others and non-conclusive in others
- depending on when national or international dietary guidelines were written, the strength of the statements around sugars varies
- in April 2017, the Forum agreed a work program on sugars to ensure consumers are provided adequate contextual information regarding sugars to support informed decision making. This work includes gathering further evidence on consumer understanding and behaviour and exploring international approaches to sugar labelling
- strong views are held by different stakeholders, and
- much of the negative media surrounding the HSR system (and the reported impact on consumer confidence) has related to concerns about products that are relatively high in sugars.

Against the principles of the Review, we will be considering the breadth and quality of evidence to inform this issue. We will also be seeking advice from the TAG and others to provide a comprehensive analysis of sugars (and the options) for consultation through the third discussion paper to be published in July 2018.

Some issues for examination include:

- clearly defining the issue in relation to sugars and the HSR, and assessing the strength of the evidence that there is an issue
- determining whether concerns surrounding sugars are more pronounced around certain products, sub-categories or categories of food or beverage

⁹ Boylan, S., Mhrshahi, S., Sugar Intake and Health outcomes: A Rapid Evidence Review. Prepared for the Centre for Population Health, NSW Ministry of Health. Sydney; Physical Activity, Nutrition and obesity Research Group, August 2015

- whether possible changes in other areas, will have knock-on effects that reduce concerns surrounding sugars
- if the evidence supports distinguishing added sugars from intrinsic sugars, considering:
 - how added sugars should be defined and distinguished from intrinsic sugars
 - the impact on the HSR
 - whether consideration of the addition of added sugars would address the categories and/or products of concern for stakeholders, which include breakfast cereals, fruit juices and muesli bars
 - any implementation implications (including alignment with the Food Standards Code)
- if the evidence supports the imposition of caps, whether this is relevant to all categories or only some, and
- if there are changes to the treatment of sugars, how this would impact/overlap with energy and how this would impact core foods (especially fruit and dairy).

Concerns about 'positive' foods or nutrients influencing modifying points

Wholegrain

A number of stakeholders have submitted that the HSR system should better reflect the protective effect of wholegrain. Stakeholders have noted the wide range of studies comparing wholegrain intake with survival/mortality, chronic disease and health status, and surrogate markers of disease. Overall, the studies suggest a strong association between wholegrain intake and a reduced risk of coronary heart disease, cardiovascular disease and total cancers.

In considering Principle 1 (refer Chapter 3 of this Paper) and alignment with the ADG and the NZEAG, both the ADG and NZEAG make extensive reference to grains and cereal foods and also note that consumption of grain (cereals) should be mainly wholegrain. The NZEAG recommend consuming a variety of nutritious foods every day, including grain foods, mostly wholegrain and those naturally high in fibre. They note that eating wholegrain and high fibre foods is linked with lower risk of cardiovascular disease, type 2 diabetes, weight gain and some cancers such as bowel cancer. However, the ADG do not deal with wholegrain to any great extent beyond stating that more recent evidence from Western societies suggests that dietary patterns consistent with guidelines recommending relatively high amounts of vegetables, fruit, wholegrains, poultry, fish and reduced fat milk, yoghurt and cheese products may be associated with superior nutritional status, quality of life and survival in older adults.

The ADG define wholegrain as the term applied to products that use every part of the grain including the outer layers, bran and germ, even if these parts are separated during processing and regardless of whether the grain is in one piece or milled into smaller pieces. The ADG note that the term wholegrain may apply to whole and intact grains as found in some bread and crisp breads, puffed or baked grains in some breakfast cereals, coarsely milled or kibbled wheat found in breads such as pumpnickel and ground grains such as whole wheat flour used to make wholemeal bread.

The NZEAG acknowledge that there is no agreed definition of the term 'wholegrain', stating that it is common to use 'wholegrains' or 'intact grains' to mean grains that still have their key parts intact – that is, the bran endosperm and germ.

If, from a policy perspective, it is agreed that the HSR system should better ‘reward’ wholegrain in foods, consideration would need to be given to:

- how to define wholegrain:
 - Consistent with the principles of the Review, as a starting point we would consider the definition used in the Food Standards Code. Standard 2.1.1 of the Food Standards Code (Cereal and Cereal products) defines wholegrain as the intact grain or the dehulled, ground, milled, cracked or flaked grain where the constituents—endosperm, germ and bran—are present in such proportions that represent the typical ratio of those fractions occurring in the whole cereal, and includes wholemeal. This definition is the same as that used by the Grains and Legumes Nutrition Council in their *Code of Practice for Whole Grain Ingredient Content Claims*
- how to reflect wholegrain in the calculation of modifying points within the HSR calculator. Some possible options could include:
 - adding wholegrains to the calculation of FVNL modifying points
 - replacing fibre modifying points with wholegrain modifying points, or
 - adding wholegrain as a new class of modifying points
- the impact of each of the above options on each category including any adjustments that would need to be made to modifying points overall and the scaling of the categories.

Subject to further consultation regarding the overall desirability of including wholegrain in the calculation of modifying points (and stakeholder advice on various options), we propose seeking modelling advice from the TAG regarding the impact of the various options (or any other options identified). These matters would then be included in a more detailed discussion paper proposed for release in May or July 2018.

Protein

Some submitters have suggested that protein should not be used to calculate modifying points because protein is not generally lacking in the Australian or New Zealand diet.

As part of the Review we are keen to better understand the issues including:

- the reasoning around inclusion of protein and the impact of including protein as modifying points
- the types of food most impacted by the protein modifying points and whether consumption of these foods should be generally encouraged. For example, the inclusion of protein in the calculation of modifying points might favour whole, core foods the consumption of which may be encouraged (such as nuts, cheese, fish, meat, lentils and some seeds)
- the extent of protein addition in foods – to what extent is it occurring, what type of products is it occurring in and what is the impact on the HSR of protein addition, and
- possible options for addressing any problems identified. While options may be more readily able to be identified once the nature of the problem (if any) is clearly identified, some possible options could include:
 - removing protein as a source of modifying points in the calculator
 - reducing the value of protein as a source of modifying points in the calculator
 - excluding certain ‘added’ sources of protein from being able to be counted in the modifying points, or
 - removing protein, but adding another nutrient (for example, calcium) as a source of modifying points in the calculator.

Subject to further consultation regarding the overall desirability (and priority) of making changes in relation to protein (to be explored through the forums), we would propose seeking TAG modelling advice regarding the impact of any options, including the potential knock on effects.

Concerns about the outcome of the calculator for specific foods

Fruit juices with no added sugars

A number of stakeholders have raised concerns that fruit juice should not score as high as the whole fruit from which the juice is derived and that some whole juice can include added sugars. Other have suggested that diluted juices are a healthier choice (lower in energy and sugars) but do not benefit from the FVNL content that increases the star rating for whole juices.

In terms of alignment with the ADG, the definition of fruit juice in the ADG provides that:

- fruit juice, including pulp, is a good source of vitamins such as vitamin C and folate and also provides fibre and carbohydrates, particularly natural sugars
- whole fruit is preferable to fruit juice however the occasional use of fruit juice may assist with nutrient intake when fresh, frozen or tinned fruit supply is sub-optimal, and
- fruit juice is energy-dense and if consumed in excess can displace other nutritious foods from the diet and may lead to problems such as obesity.

The NZEAG more expressly recommend limiting fruit juice intake. Those guidelines provide that adults should eat at least three servings of vegetables and two servings of fruit each day (differing to Australian requirements). When listing example servings of fruit, fruit juice is not listed. Instead a reference is made to fruit juice being a high-sugar drink (as it contains all the naturally occurring sugars found in the many pieces of fruit required to make one glass of juice) and the Ministry of Health recommends eating fresh fruit and drinking plain water rather than drinking fruit juice.

Through consultation to date, stakeholders have identified a number of potential ways that the issues with fruit juice could be addressed. For example:

- provide that fruit juices are ineligible to use the FVNL points
- modify the FVNL rules for fruit juice specifically, or
- set a cap on fruit juices such that they cannot score more than, for example, 4.5 stars (or cannot score more than the fruit or vegetable from which the juice has been derived).

These are just a few of the options that could be considered.

Each of these options have pros and cons, meet the principles to varying degrees and have varying impacts. For example, some of the options would radically change the HSR of juices, some would mean that the star rating for juices could range from 0.5 to 4.5 stars and some would present challenges where juice is used as an ingredient in other foods.

Subject to further consultation regarding the overall desirability (and priority) of making changes in relation to fruit juices, we would seek TAG modelling advice regarding the impact of the various options, including the potential implications for HSR application to other products.

These matters would then be included in a more detailed discussion paper proposed for release in July 2018.

Chapter 5 – Promotion of the HSR system

As required by the Terms of Reference, the Review will examine the campaigns, education and messaging that has accompanied the implementation of the HSR system.

Many stakeholders have been critical of the messaging around the HSR system and the limited education and campaigning around healthy eating more generally. Concerns have also been expressed that education materials have been limited and inadequately circulated.

Some stakeholders are critical of the HSR messaging (such as ‘the more stars the healthier’ and ‘healthier is easier when you look for the stars’) because it does not contextualise the HSR or help consumers to use it appropriately. Stakeholders encourage increased consumer education to enhance consumer awareness, use and understanding of the system – with a particular need for improved education about comparing products within categories and about the HSR in the context of healthy eating (noting that the HSR is just one tool to support healthy food choices and not a surrogate for the dietary guidelines).

As part of the Review, we have been requesting information from stakeholders about their campaigns and education materials. The breadth of education and campaign materials has been broader than we anticipated, with materials being made available by manufacturers, retailers, governments and public health bodies. Further, education materials have emerged in a wide range of environments including online, in supermarkets, on shelves, on pamphlets and via radio advertising. We will continue to collect and analyse materials over the course of the Review.

We are mindful that this is a dynamic environment, that education is ongoing and that a number of governments (for example, South Australia) are soon to release further campaign materials, including positioning the HSR within the context of broader healthy eating messages.

While we will not be evaluating the impact of each and every campaign, we will be seeking to:

- describe the range of activities that have accompanied the roll out of the HSR system
- articulate the collective strengths and limitations of these activities
- specifically examine government communication surrounding the HSR system, drawing on the body of work that has already been undertaken to evaluate the impact of government campaign activity (including reports released in 2015, 2016 and in 2017), and
- learnings for the future including how the HSR system is positioned within the context of broader healthy eating message and how consumer confidence in the HSR system can be built.

Chapter 6 – Governance of the HSR system

Governance structures

As many stakeholders are aware, there are five main bodies involved in the governance of the HSR. These are:

- **the Forum**, which includes Ministers responsible for food from across Australia and New Zealand and is chaired by the Australian Government. The Forum will consider the Review Report (and its recommendations), along with any recommendations from the FRSC
- **the FRSC** is a sub-committee of the Forum and is responsible for coordinating policy advice to the Forum and ensuring a nationally consistent approach to the implementation and enforcement of food standards. The FRSC will be considering the Review Report and the recommendations of the HSRAC and advising the Forum on the future of the HSR system
- **the HSRAC** is responsible for overseeing the implementation and evaluation of the HSR system. This includes the assessment of potential anomalies that may be identified within the HSR calculator. Members are from the New Zealand government, Australian Commonwealth, state and territory governments, as well as representatives from industry, public health and consumer groups
- **the New Zealand Health Star Rating Advisory Group** is chaired by the MPI and includes people from the food industry, academia, public health and consumer groups in New Zealand. The Group considers implementation of the HSR in New Zealand
- **the TAG** was established by the HSRAC in late 2016 to analyse the performance of the HSR calculator for the Five Year Review and respond to technical issues and related matters referred to it by the HSRAC. The TAG comprises a range of experts from government (including Food Standards Australia New Zealand), the food industry and public health.

As identified by many stakeholders, one of the key strengths of the HSR system has been the cooperative and collaborative approach to its development and ongoing evaluation. This cooperative approach is consistent with the approach promoted more broadly in relation to food regulation. For example, the *Engaging in the Australian and New Zealand joint food regulation system* strategy is founded on the recognition that better outcomes for food regulation are achieved if “*a wide range of stakeholders are involved and engaged in the system*”.

Based on our observations to date and review of a wide range of documents and feedback from stakeholders, the system has been characterised by:

- a high degree of cooperation between industry, public health and government (noting that it can often be difficult to achieve consensus and agreement between these parties)
- a strong continuity of committee membership, which has been particularly valuable in the early stages of implementation
- effective working relationships
- a reasonably transparent process, and
- a high degree of public consultation – as evidenced by the level of consultation to date on the ‘as prepared’ issue.

Despite stakeholders generally appreciating the strengths of the governance model, a number of stakeholders have identified concerns about:

- the composition of the HSRAC and the TAG (including whether there is adequate public health and nutrition science expertise)
- potential conflicts of interest, and
- concerns regarding transparency particularly in relation to decisions on anomalies or changes to the HSR style guide.

Some of these concerns may have arisen from misunderstandings or not being aware that information is publicly available, and some have been addressed more recently. For example:

- over the past few months public health/nutrition science experience has been strengthened on the HSRAC
- a profile of HSRAC and TAG members can be accessed on the HSR website (providing transparency as to membership)
- conflicts of interest are declared at each meeting and published on the HSR website, and
- the outcomes of HSRAC meetings are published.

In further exploring the governance arrangements we will:

- speak with stakeholders regarding areas where they consider there is inadequate transparency and also what they would like to achieve from enhanced transparency
- examine decision making processes (including the timeliness of decision making) particularly in relation to anomalies or other changes to the HSR system
- consider the role of the governance bodies, taking into account the impact of the system continuing as voluntary or becoming mandatory
- consider any learnings from best practice governance models (national and international), and
- consider cost implications of various governance models.

Ongoing implementation of the HSR

As part of our examination of both the governance arrangements and the uptake of the HSR system, we will consider whether the system should continue to be voluntary and also the implications of mandating the system.

We will consider:

- indicators for measuring uptake 'success' under a voluntary system. From a public health and whole of population perspective, there are some categories and sub-categories in which it is more important that there is greater uptake and HSR coverage. For example, in those categories with high sale products that are likely to have a larger public health impact (for example, dairy and cereal products)
- the likely impacts on consumers (including on consumer confidence) of different regulatory models, drawing on national and international research and experience
- the likely costs to industry (which may be passed on to consumers) and government under any option
- the implications for monitoring and governance arrangements
- implications for the Food Standards Code, which would require amendment should the HSR system be mandated

- the impact on flexibility and the capacity to make adjustments to the system, which can be important in a market that changes rapidly
 - For example, breakfast beverages were not a significant sub-category at the time the rules for the HSR were first developed but have become so. Likewise, coconut water (and coconut products) were not significant four years ago, but play a much greater role today and the system needs to be agile enough to adjust to a dynamic food supply
- any transitional arrangements
- any World Trade Organisation implications
- any learnings from other regulatory/co-regulatory models and international experience
 - While a number of stakeholders have drawn our attention to models operating overseas, we are conscious that there is enormous variation in the regulation of nutrition labelling around the world and there are both benefits and risks in drawing directly from others' experience noting: the cost saving incentives of drawing on the learnings of an existing system; differences between countries in terms of nutritional contexts; the amount of food exported or imported; the regulatory environment and the wider labelling requirements; and that systems continue to adapt and evolve.
- the consistency of various options with:
 - expectations of the Council of Australian Governments (COAG) as detailed in their guide: *Best Practice Regulation: A guide for Ministerial Councils and National Standard Setting Bodies*. The Guide describes the principles for best-practice regulation agreed by COAG and provides guidance for undertaking regulatory impact assessment, and
 - international standards, guidelines and recommendations (such as Codex Alimentarius standards relating to food labelling and the *OECD 2012 Recommendations on Regulatory Policy and Governance*).

Chapter 7 – Further consultation opportunities

Forums

Dates and locations

Throughout February to April 2018, consultations will be held across Australia and in New Zealand. Details for the consultations are as follows:

Date	Venue and Location	Times	RSVP
2 February 2018	Rydges Adelaide 1 South Terrace Adelaide	10.00 – 12.30pm	By 29 January to: frontofpack@health.gov.au
7 February 2018	SMC Conference and Function Centre 66 Goulburn Street Sydney	Consumer and public health: 10.00 – 12.30pm Industry: 1.30 – 4.00pm	By 1 February to: frontofpack@health.gov.au
21 February 2018	Jasper Hotel 489 Elizabeth Street Melbourne	Consumer and public health: 10.00 – 12.30pm Industry: 1.30 – 4.00pm	By 15 February to: frontofpack@health.gov.au
2 March 2018	Venue TBA Brisbane	10.00 – 12.30pm	By 26 February to: frontofpack@health.gov.au
8 March 2018	Venue TBA Auckland	10.00 – 12.30pm	By 2 March to: info@mpi.govt.nz
19 March 2018	Venue TBA Perth	10.00 – 12.30pm	By 13 March to: frontofpack@health.gov.au
12 April 2018	Hellenic Club Matilda Street, Phillip Canberra	10.00 – 12.30pm	By 6 April to: frontofpack@health.gov.au

Focus of forums

At each forum, we propose to discuss:

- the main outcomes of consultation to date
- the principles informing the Review (as discussed in Chapter 3)
- options for improving uptake of the HSR
- the issues described in Chapter 4 with a focus on clearly articulating the underlying problems
- the governance of the HSR system, and
- next steps (including for further consultation).

Forum participants will also have the opportunity to raise any other issues relevant to the Review.

It is important to note that in many cases modelling undertaken by the TAG will best inform the preferred option for addressing a particular issue. At the time of the forums, this modelling will not be available. However, we are keen to ensure that through the forums we:

- clearly define the issues that stakeholders wish to address and the relative priorities of different issues
- properly explore the outcomes stakeholders wish to see (or to avoid)
- identify some of the possible options for addressing identified problems, and
- develop a common understanding of some of the complexities, potential knock on effects and matters that will need to be considered in determining a preferred approach (including where principles will need to be considered and compromises made between competing objectives).

Approach to forums

We are aware that stakeholders are polarised on a number of issues and that discussion around food can be emotive. We will invite forum participants to:

- be respectful at all times
- help in identifying solutions to problems, and
- consider a wide range of options including options that might be most likely to lead to agreement, consensus or a model that best meets the needs of a majority of stakeholders.

Two forums will be hosted in both Sydney and Melbourne to accommodate the anticipated number of participants. While these sessions will present the same content, consumer and public health groups are encouraged to attend the morning session and industry stakeholders are encouraged to attend the afternoon session. As numbers will be limited for each of the sessions, we encourage stakeholders to attend one session only. In all other locations, one forum will be held (combining consumer, public health and industry stakeholders).

Consultation on Discussion Papers

As outlined in Chapter 3, it is proposed that three discussion papers will be released over the next six months:

- a discussion paper on the ‘as prepared’ issue (being progressed by the HSRAC in advance of the Review) – by March 2018, and
- discussion papers identifying the key issues against each of the remaining five themes – by May 2018 and by July 2018.

The way that issues will be grouped (in the second and third discussion papers) will depend on the outcomes of modelling by the TAG, the availability of relevant data and the outcomes of consultation through the forums (held in February – April 2018).

There will be a minimum six-week period of consultation on each discussion paper (noting that each discussion paper will cover a range of issues).

It is likely that there will be workshops, possibly held in July/August, to discuss the issues raised in each of the sets of discussion papers.

Consultation on draft Review Report

Subject to the availability of data (to end June 2018) and the identification of viable options/preferred solutions for key issues identified through the Review, it is proposed that a draft of the Review Report will be made available for public comment in the first quarter of 2019 (for at least six weeks).

Following consideration of feedback on the Review Report, the Report will be finalised and provided to the Forum (through the HSRAC and the FRSC) in 2019.