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Commentary. Food regulation

Star*Gate





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Access December 2013 Big Food Watch on nutrition and Big Food here
Access February Big Food Watch on power brands here

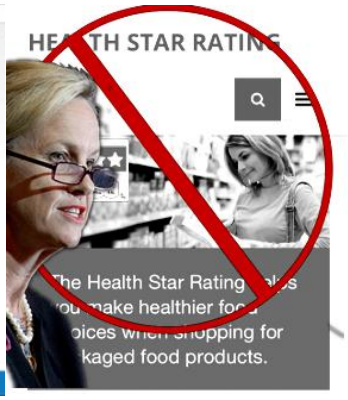
Summary



Here we tell the story of the very short life of the Australia and New Zealand Health Star Rating front-of-pack nutrition labelling system (example above). This was born on-line on the official Australian Health Ministry site at midday on 5 February, yet was terminated about eight hours later. It is a story of apparent Big Food hanky-panky at highest levels within our new corporate-friendly government, now rocked by accusations of gross conflicts of interest. This scandal, which has gained vast media coverage, has polarised the country. Some say down with the Nanny State and let industry rip. Others say that a first duty of government is to regulate and guide in the public interest and that health comes before profit.

Events leading up to Star Rating





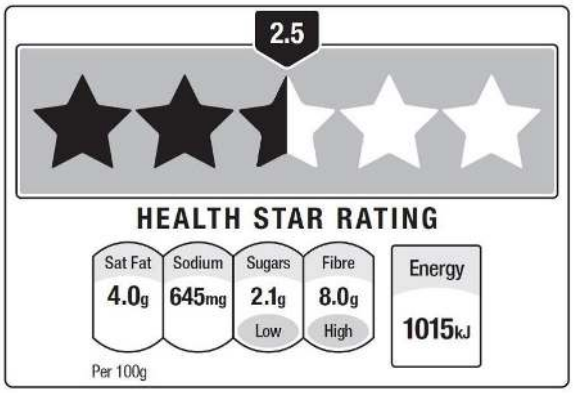
Left is a screenshot taken on 5 February from the official Star Rating website during its one day of life It was taken off-line the same day by order of the responsible health Minister Fiona Nash (right)

Throughout this February, food and nutrition regulation has hit the Australian media headlines, and has been the topic of furious exchanges in Parliament, which continue as we write. The newly elected big business-friendly Liberal government has been incessantly under fire from the Labor opposition. Never before in Australia has public health nutrition had so much attention from policy-makers, the media and the public. This is indeed a *Big Food Watch* story, as indicated by '*Ideasmith*' in a witty comment following a newspaper feature. 'How I wish Australian politicians were made to wear suits with sponsor patches just like racing car drivers'.

The actors in the spotlight are Fiona Nash, the government Minister responsible for food regulation, and her chief of staff Alistair Furnival, who on 14 February resigned from his position. This follows a week of melodrama of ever-more astounding revelations. These feature what you would expect to be an innocuous health department Health Star Rating website. This shows a new labelling scheme designed to highlight the nutritional quality of processed food products. Or rather, it showed – eight hours after the site was on-line it was taken off-line, by order of Alistair Furnival, backed by Fiona Nash. (See Box 1).

Food labelling has been a source of tension and conflict for many years in Australia and New Zealand. These two countries have the same food regulatory system. For a number of years there have been protracted investigations around issues such as the standard back-of-pack nutrition information panel, and on statements and claims made on labels by manufacturers. Discussions on front-of-pack labelling date back to 2009 when a comprehensive review of food labelling was announced. In January 2011 the *Labelling Logic* report was presented to government, recommending introduction of a 'traffic light' labelling scheme, like those used in other countries (1). This was refused by industry. The Australian Food and Grocery Council stated 'AFGC will not support any form of traffic light labelling… AFGC opposes

simplistic colour schemes as potentially being misinterpreted to the extent that moderation, variety and balance in diets are compromised.' (2) In December 2011, the official Ministerial Forum on Food Regulation put forward the compromise of a single interpretive front-of-pack labelling system. A project committee with government, food industry, public health and consumer representation was established to develop the system. What became the Health Star Rating scheme (see below) was presented to the forum in June 2013.



As can be seen, the scheme consists of: a star rating element and a nutrient information element. The star rating is underpinned by nutrient profiling scores similar to those used to approve health claims on processed products. The star rating scale is from half a star to 5 stars, with half-star increments and a 'slider' with the total star rating of the product. The nutrient information elements are for saturated fat, sugars and sodium, with another optional item such as for dietary fibre. There is an option of including the words 'high' or 'low' as appropriate, plus an energy item with the unit of measure in kilojoules.

Both industry and public health and consumer groups were unsatisfied with various elements of this compromise, but there was general agreement to use it. The Ministerial Forum endorsed the scheme at its June 2013 meeting, and the Health Star Rating Calculator at its December 2013 meeting. The Forum also agreed that from 2014, a tripartite oversight and advisory committee would be put in place, with representation from industry, public health and consumers, and government, to monitor and evaluate the scheme.

The Forum preferred the voluntary implementation option but stated that if there was not sufficient industry uptake within two years, a mandatory approach would be required. The AFGC said publicly that manufacturers supported the scheme, but were outed and denounced by various consumer and public health bodies for making behind-the-scenes moves to slow down or mess up the scheme. This all continued up to and after the election of the current corporate-friendly Liberal government last September. On Wednesday 5 February, around noon, the Health Star Rank system was launched on the Health Ministry's website. And then, the same day… See below.

Box 1

Star*Gate so far



BIG FOOD WATCH

5 February. At midday a member of the secretariat in the Australian government Health Department uploads a new website that enables consumers to use the new Star Rating labelling system, having already alerted stakeholders by email that the site was about to be uploaded. At approximately 8 pm this same day, Alistair Furnival, chief of staff to the relevant health Minister Fiona Nash, demands that the site be taken off-line.

Kathy Dennis, the senior official in charge of the site, refuses the demand. Her position is that Star Rating was developed through the Council of the Australian Government's Ministerial Forum on Food Regulation, representing all Australian States and Territories, and that Alistair Furnival has no authority to remove it. But then Fiona Nash personally intervenes and orders the website be taken down. It turned out that her office took a call that afternoon from Gary Dawson, the Australian Food and Grocery Council CEO, who urged that the website be axed. However, the Health Department explains that the removal is due to an 'inadvertent error' in posting the website because it is still being drafted.

7 February. Senator Nash does not respond to questions from media group Fairfax, about whether she or Alistair Furnival axed the site.

11 February. Labor Senator Penny Wong asks in parliament if Senator Nash and Alistair Furnival have read and complied with officlal standards on conflicts of interest. She asks if there are links between Alistair Furnival and Australian Public Affairs, a public relations company acting for the Australian Beverages Councll (Coca-Cola, PepsiCo, Schweppes) and Mondelez (previously Kraft, including Cadbury, Nabisco, Oreo cookies, and the Natural Confectionery Company).

Senator Nash replies saying that the line of questioning is 'unworthy', and says 'There is no connection whatsoever between my chief of staff and the company Australian Public Affairs. My chief of staff has no connection with the food industry and is simply doing his job'. Later in the same parliamentary session that day Senator Nash clarifies her statement, saying 'Prior to working for me, Mr Furnival was APA chairman, and because of that previous position he has a shareholding in the company. Prior to his appointment to my staff arrangements were put in place so that his previous business activities could not conflict with his obligations... and indeed my obligations as a minister' (Later it emerges that Tracey Cain, who is Alistair Furnival's wife, is now APA sole director and company secretary).

Liberal Senator Ian Macdonald congratulates Senator Nash on her frank and open approach. He also warns the Labor opposition that it could open a Pandora's Box by pressing the issue. He says he could unearth stories about the Labor Party if pushed. 'Give me five hours and I can go on about these things,' he tells the chamber. 'Once you start along this path, who knows where it might end.'

12 February. Kathy Dennis is removed from responsibility for the website following a Health department 'internal restructure'.

12 -14 February. A snowstorm of media coverage. Public health authority and Order of Australia holder Mike Daube says he wonders if Senator Nash is the most appropriate person for the prevention portfolio. 'Her party still takes tobacco funding; she has already moved to defund the national alcohol treatment and services peak body; her chief of staff worked until very recently for the food industry; and her actions over the star ratings website look decidedly industry-friendly. It will be very hard to have confidence that this minister understands the importance of prevention or will take on powerful industry groups'.

14 February. The axeman falls on his axe. Alistair Furnival resigns. He says he did nothing wrong and there is no conflict of interest. 'I have done so with a clear conscience but with recognition that this political attack is a distraction from the important health issues being effectively addressed by this government. I accepted this role to contribute to the Australian government and appropriately managed potential conflicts'.

Later. More is revealed about Alistair Furnival when chief of staff to Fiona Nash. He had a key role in the government's recent decision to deny funds to the Alcohol and other Drugs Council of Australia after 46 years of operation. He was also involved in lobbying for government to provide funding for Cadbury's to upgrade one of its factories, which it has done to the tune of $A 16 million.

25 February. *A total of 66 professors of health* denounce Fiona Nash's action, in an open letter. 'In recognising the impact of obesity and poor nutrition on the physical and economic health of our communities and its role in chronic illnesses such as diabetes, cardiovascular, kidney disease and cancer, we call on all Ministers who meet as the Legislative and Governance Forum on Food, and all governments, to take whatever action is within their power to enable the Front of Pack Health Star Rating System to be implemented as soon as possible'.

26 February. During a stormy session in Parliament. Prime Minister Tony Abbott (screen shot below) says that the Star Rating story is 'not even a zephyr in a thimble' and of Fiona Nash, in perhaps a slightly unfortunate phrase, he says: 'I back her to the hilt'.



Responding to a series of fierce questions in Parliament from Labor opposition Senators, Liberal government Prime Minister Tony Abbott says of Fiona Nash 'I back her to the hilt'

28 February. The Health Star Rating System is still off-line. Fiona Nash remains in post. The 66 professors may press their case. The media may stay with the story. So far it looks like the government is toughing this one out.

The place of food regulation

Star*Gate has exposed the big issue of food regulation in Australia and New Zealand, and in other countries. One visible focus is bound to be food product labelling. As with other products that have labels, public health organisations and professionals typically want explicit uniform simple food product labels that where appropriate include warnings, whereas the manufacturers want commercial freedom to promote their products with positive health statements and claims in any style or format that suits them, with less or no emphasis on cautionary information.

All very understandable. This is where government comes in. To make the point sharp, government has the choice whether to support public health or private wealth. The inclination one way or the other of any government on any public policy issue, will be largely determined by its general political and economic ideology.

More specifically, food regulatory systems are guided by needs to protect public health and to provide adequate information to make informed decisions. There are many scientific and ideological debates about the way that these two objectives are framed and applied. Some say Australia and New Zealand need strong food regulation to help reform their food systems and supplies, to protect public health and to provide adequate information. Others argue for a 'light touch' in which regulation is the last resort and is justified only on the basis of hard evidence on acute and immediate food safety risk.

More specifically yet, the Health Star Rating system is flawed. One reason is that it is based on reductionist thinking in which a nutrient focus on specific nutrients or dietary constituents is the basis for correcting dietary imbalances. But it is not bad, it is a reasoned-through and agreed compromise, and it is particularly helpful in guiding choice as between different versions of the ultra-processed products that now amount to an acute public health problem in Australia and New Zealand.

Moreover, everybody needs to become clear on where in the regulatory continuum Star*Gate is located. This was never going to be one of those strong mandatory regulations now being discussed at all levels in many countries, such as taxes on ultra-processed products including soft drinks, or statutory restriction of advertising and marketing these 'junk foods' to children. It is simply designed to provide interpretive information about the nutrient content of foods. Nor is it mandatory, it is a voluntary system that manufacturers can use or not as they choose. But perhaps the word 'is' has to be replaced by 'was', for at the time of writing there is no sign that the Australian government will restore Health Star Rating.

This depressing story shows how far the food regulatory system pendulum has in Australia swung towards the commercial interests of Big Food. Rob Moodie, a

distinguished professor of public health at the University of Melbourne (3) says. 'The ultra-processed food industry undermines virtually every public health proposal that is put forward … The only thing they are interested in is utterly ineffective self-regulation'. He has gone on to say, 'This food industry is so powerful in Australia that at the moment politicians are more afraid of them than they are of others who oppose them'

References

1 Labelling Logic. http://www.foodlabellingreview.gov.au/internet/ foodlabelling /publishing.nsf/content/labelling-logic

2 Australian Food and Grocery Council submission. September 2011 Response to draft discussion papers and questions on food labelling law and policy report (2011) Available at: http://www.afgc.org.au/doc-library/category/11-general-documents.html?download=617%3Aafgc-submission-in-response-to-the-food-labelling-review-consultation-papers-sept-2011.

3 Moodie R, Stuckler D, Monteiro C *et al.*. Profits and pandemics: prevention of harmful effects of tobacco, alcohol, and ultraprocessed food and drink industries. *Lancet* 12 February 2013; **381**: 670–679. http://dx.doi.org /10.1016/S0140-6736(12)62089-3

Status

Mark Lawrence and Julie Woods state: We write as members of the Public Health Association of Australia. We have both been involved in government-convened discussions on food labelling, over the years. We do not regard this as a competing interest.

As is stated in all contributions to *World Nutrition,* this commentary should not be taken to be the position of the World Public Health Nutrition Association. *Big Food Watch* contributions are also not publications of the Conflict of Interests Network. They are the responsibility of their authors and of the *Big Food Watch* network.

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