

Food Standards Australia New Zealand

Food Standards Australia New Zealand welcomes the opportunity to make a submission to the Senate Standing Committee Inquiry into the Food Processing Sector.

Food Standards Australia New Zealand (FSANZ) is an independent statutory authority established under the *Food Standards Australia New Zealand Act 1991* (the FSANZ Act).

The food regulation system is described in the *Food Regulation Agreement*, made between the States, Territories and Commonwealth of Australia on 3 July 2008. The primary purpose of the system, as articulated in the *Food Regulation Agreement*, is to provide 'safe food controls for the purpose of protecting public health and safety'.

FSANZ complements the policy development function that is reserved to policy makers such as the Food Regulation Ministerial Council. For example, FSANZ can assist the development of policy on matters related to food through the provision of high quality information based on the best available scientific evidence. Occasionally, FSANZ will be requested to assist the implementation of public health policies by making a food standard that complements the implementation of non-regulatory measures.

The objects statement in the FSANZ Act makes it clear that FSANZ is established to give consumers confidence in the quality and safety of the food supply chain, provide a regulatory framework that establishes an economically efficient environment for industry, give consumers information relating to food that enables them to make informed choices, and provide consistency in domestic and international food regulation in Australia and New Zealand, without reducing the safeguards applying to public health and consumer protection.

The primary method by which FSANZ achieves the objects of the FSANZ Act is to regulate the supply of food in Australia and New Zealand by making food standards.

When making food standards FSANZ is required to achieve some particular objectives, in addition to achieving the objects of the Act. The additional standards setting objectives are the protection of public health and safety, to provide adequate information relating to food to enable consumers to make informed choices and to prevent misleading or deceptive conduct.

Standards should also be based on risk analysis using the best available scientific evidence, promote consistency with international standards, promote an efficient and internationally competitive food industry and promote fair trading in food products. Standards should also be developed with regard to policy guidelines developed by the Food Regulation Ministerial Council, good regulatory practice and relevant New Zealand standards.

Standards developed by FSANZ do not have a direct legal effect. Rather, the *Food Regulation Agreement* provides that the States and Territories adopt or incorporate the Code into State or territory law. States and territories have enacted legislation to implement their part of the Agreement.

The Australian Government and New Zealand Government have also entered into an agreement by which New Zealand adopts the majority of FSANZ's food standards. New Zealand has agreed to adopt general food standards eg labelling, and composition, with limited exceptions for special

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cultural or trade considerations. The treaty between Australia and New Zealand describes a procedure that facilitates the making of consistent standards.

FSANZ is a demand-driven organisation. The work plan for the development of food standards is largely determined by formal applications from the food industry and consumers who seek to amend the Code. Applications must be dealt with in accordance with legislated processes and timelines. FSANZ is facing an increasing workload due to the increased complexity of some of the standards being developed (e.g. novel foods) or the need to consult the public extensively on matters such as the health claims and primary production standards.

A second source of standards development work for FSANZ is the Ministerial Council. Following deliberations by senior officials and the Food Regulation Ministerial Council on policy matters, Ministerial Policy Guidelines are provided to FSANZ setting out guidance in relation to specific areas for food standards.

Finally, FSANZ may, and frequently does, initiate regulatory changes (through proposals), usually as a result of emerging public health and safety concerns that require early intervention.

In addition to standards development work, FSANZ must be able to respond promptly to food safety incidents. We have a major role in coordinating jurisdictional activities and facilitating common approaches in responding to food incidents that span State borders. We also provide risk assessment advice to the Australian Quarantine and Inspection Service (AQIS) where food imports present a medium or high food safety risk.

FSANZ is also asked to participate by the Department of Foreign Affairs and Trade and the Department of Agriculture, Forestry and Fisheries in international food standards-setting and trade negotiation meetings where scientific and technical issues relating to food are considered.

FSANZ has taken several steps to better manage these external demands. FSANZ has the statutory capacity to delay the commencement of standards work, in some instances. Once started, however, the work must be finalised within specified timeframes, usually 9 months (except in some circumstances when a 6-month extension is necessary and reasonable). FSANZ is also able to charge fees for its work in some circumstances. From 1 October 2007, FSANZ has had a limited capacity to delay consideration of an application until such time as Ministers have finalised their policy consideration.

FSANZ underpins its development of food standards and other regulatory activities by the best available scientific evidence. The currency of this information is critical in ensuring the credibility and reliability of FSANZ's decision-making and in maintaining confidence in those decisions. However, some of the information available to FSANZ is becoming increasingly out of date, and/or there is a paucity of relevant information available from external sources. FSANZ therefore pro-actively seeks to seize opportunities for research work to be done, including through specialist R&D organisations such as the Rural Industries Research and Development Corporation, and the Australian Research Council which facilitates collaborative research activities.

The evidence-based approach to developing regulatory measures fulfils Australia's (and New Zealand's) obligations under the international food regulatory system (e.g. WTO, Codex Alimentarius). The approach is required by our enabling legislation and is part of good regulatory practice.

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A key tool in assessing the risk posed by chemical and nutritive substances present in food, or deliberately added, is to obtain an estimate of the exposure of humans to the chemicals through their diet. In the 1990s, FSANZ developed a computer-based modelling capability, known as DIAMOND, to estimate this exposure. Supporting the estimates of exposure to nutrients is another FSANZ data system, the Australian Nutrient Data Bank (ANDB), which was also developed in the 1990s. Both these data systems are now nearing the end of their lives and are available only to selected users, within FSANZ and externally. The terms 'dietary modelling' and 'dietary exposure assessments' are used interchangeably by FSANZ.

In May 2009, FSANZ received Australian Government funding (\$2.65 million over two years) to replace these systems with a single data management system with greatly enhanced capabilities in data storage, manipulation and reporting. The new system is known as Harvest and for the first time will allow ready access to all FSANZ staff, and to selected external agencies in both countries, to the data stored in it. A public 'face' to the system will allow some public access through the FSANZ website.

There are two key datasets that are used to estimate dietary exposure for risk assessment purposes – consumption data and composition data. Dietary exposure assessments assist FSANZ and others to determine whether substances that are present in the food supply, or are the subject of an application to be added to the food supply, are (or will be) at safe levels. In addition to the redevelopment of the data management system, Harvest, FSANZ continues to be involved in major updates to these underlying datasets.

The currently available, nationally-representative food consumption data for Australia is taken from the 1995 Australian National Nutrition Survey (NNS) and the 2007 Children's Nutrition and Physical Activity Survey; and for New Zealand from the 1997 New Zealand Adult NNS and the 2002 Children's NNS. These surveys questioned representative samples of Australians and New Zealanders about the type and quantity of food consumed during the previous 24 hours, covering a range of age groups across a broad geographical area.

The 2011 Australian Health Survey (AHS) includes a National Nutrition and Physical Activity Survey as a key component. FSANZ has been contracted by the Australian Bureau of Statistics (ABS) to prepare the nutrient database that will be used to estimate nutrient intakes from all foods, beverages and dietary supplements reported as consumed. The consumption data from the AHS will become available for inclusion in Harvest together with the nutrient dataset, replacing the current 1995 NNS data used.

The nutrient composition data used by FSANZ derive primarily from a small food composition program that has existed for around 20 years. The data are generated from original analyses, as resources allow, and from industry groups that sometimes provide data free of charge. The data are published in the form of the online nutrient database, NUTTAB, the Nutrition Panel Calculator (FSANZ's online nutrition labelling tool) and in the datasets prepared for the NNSs.

Other composition data for use in exposure assessments come from a wide range of sources, such as the Australian Total Diet Survey, other FSANZ-funded surveys (e.g. of sulphite levels in sausages), from data supplied with applications, and from scientific literature and databases.

Several research projects have been undertaken as part of the FSANZ Evaluation Strategy (2001-2003 and 2003-2008) that aimed to assess the effectiveness of key changes to the Code and impact on stakeholder groups. Major projects included various labelling surveys with

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consumers (general labelling issues, allergen labelling, nutrition and health claims), food handling surveys with food businesses, a poultry survey with the poultry industry, enforcement officer and consumers, an ongoing label monitoring survey and a survey of intense sweetener consumption. Information from baseline and follow up surveys feeds into standard development, as appropriate, and in some cases has initiated action on reviewing standards, for example, the review of the intense sweetener cyclamate permissions in the Code.

Increasingly, FSANZ is drawing upon consumer and social sciences evidence in its decision making and has actively sought to develop its evidence base in this regard. Where competing assertions are made by stakeholders regarding likely consumer behaviour, reliable and credible evidence based in the methodologies of the social sciences have proved essential. Social science projects have been developed to answer particular questions relating to likely consumer behaviour in applications for formulated beverages, addition of plant sterols to some foods, and for various aspects of the nutrition and health claims proposal. Strong links have been established with Quads partner countries (Australia, Canada, New Zealand and the USA) to share knowledge and learning from the application of consumer and social sciences to food regulation.

Innovation is a key driver of business, economic and technology growth. The 'newness' of innovation or the seeking of competitive advantage can often stretch beyond existing technological, social, business and regulatory norms.

A major innovation in food products in recent times has been the development of foods with additional nutritional and health properties. Changes to the regulatory framework currently being implemented will facilitate these innovations (e.g. permissions for health claims). FSANZ will need to consider not only the safety of such products but also the broader impact on public health.

New technologies will inevitably challenge existing views of food safety and our ability as a regulator to communicate to consumers who hold firm views or perceptions that are not reliant on a robust evidence base

Increasingly, the regulatory focus will be on broader public health impacts resulting from changes in the food supply. This poses particular challenges for FSANZ in terms of assessment approaches, skill base and the availability of evidence on which to base the assessments. One of the difficulties that FSANZ will face is making an assessment of the nutritional and physiological impact on the whole population from the consumption of innovative foods over a lifetime.

This changed regulatory focus will also have significant impacts on industry. As FSANZ moves to a less prescriptive regulatory framework, innovation is encouraged, with applicants being required to provide a substantial amount of supporting information. The need to provide supporting information is related to the 'newness' of some food products (other technologies) as relevant information in the general body of scientific literature may be limited.

Industry also has concerns about commercially valuable information entering the public domain during the consultation phases of our processes. FSANZ's legislation has limited provisions to allow information to be treated as commercial-in-confidence and this, combined with our consultation requirements, could result in a company's marketing intentions being signalled to the market place before the commercial advantage is captured.

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Prospective new technologies include foods from GM sources and cloned animals, nanotechnology, minimally processed (low heat treatment) foods, functional foods incorporating plant or animal derived bioactives and new delivery formats, such as advanced vending technologies.

A matter that is of particular interest to the processing sector is the paddock to plate approach that has been adopted through primary production and processing (PPP) standards. To improve public health and safety and to maintain public confidence in the safety of the Australian food supply, Australian Governments have agreed to work jointly towards a whole-of-chain approach to food safety.

In July 2002, the Ministerial Council gave FSANZ the responsibility for food safety at the primary production end of the food supply chain, to complete the links through to manufacturing and retail. To address food safety issues from paddock to plate, we are working in partnership with other agencies in Australia, industry stakeholders and consumer groups in the development of PPP standards. Standards development committees, established for each food sector, provide vital advice to FSANZ.

Industry and government are committed to developing of a whole-of-chain approach to protect Australia's reputation for high levels of food safety. However, industry sectors are also keen to ensure that any regulatory change does not compromise existing markets or introduce imbalances between domestic and imported products.

The Code had not, prior to 2002, dealt with food safety concerns at the primary production end of the food chain. With the development of PPP standards in all sectors, Australia will have national food safety standards that cover the entire food chain and which take a preventive approach to food safety risks. Some State and Territory regulations do cover some primary sectors, such as meat and dairy. However, the coverage does not address all sectors across all jurisdictions, and requirements vary from State to State.

FSANZ's role is to ensure that food safety is addressed across the entire food chain in a preventive way and that the primary food sector is provided with clear statements of its food safety responsibilities. FSANZ is achieving this through the development of PPP standards that aim to:

- ensure that food safety is addressed across the entire food chain
- provide nationally-consistent standards that will set a benchmark for industry obligations to produce safe food
- provide minimum impost on industry while achieving the most effective food safety outcomes
- harmonise with international standards
- increase public confidence in the safety of food products;

FSANZ is working with the primary production industry to ensure recognition of existing industry schemes in a flexible, but consistent, system of equivalence. FSANZ is progressively working with each sector and PPP standards have been developed for seafood, poultry meat, heat-treated dairy products and egg and egg products. Work to develop PPP standards for meat products, raw milk products and seed sprouts is progressing.

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Another important function of FSANZ, from the perspective of the food processing sector, is the coordination of food recalls. Food recalls occur when there is a need to remove a food product from the market on the grounds of public health and safety. Under the FSANZ Act, FSANZ is responsible for coordinating and monitoring food recalls across Australia, but not in New Zealand. Most food recalls are undertaken voluntarily by the food industry, although the legislative power to order a recall lies with the States and Territories, and the Parliamentary Secretary to the Treasurer.

FSANZ is the national agency responsible for the coordination of food recalls between jurisdictions, the New Zealand Government, other relevant government agencies and the industry sector(s) of concern. FSANZ delivers a 24-hour (7 days a week) recall service. When a recall occurs, there is a need to remove foods from the market in a timely manner and FSANZ works closely with the industry and jurisdictions to ensure that this is done.

FSANZ's food recall actions are agreed to and facilitated by a group of senior food enforcement officers in all jurisdictions in accordance with an agreed FSANZ protocol. In order to improve liaison between FSANZ and the food industry on specific food contamination, recall and emergency issues, FSANZ initiated the creation of the Retailers and Manufacturers Liaison Committee in April 2001. This is an informal arrangement, which allows us to consult on emerging food-related issues with a small but representative group of food industry interests.

Following stakeholder consultation and review, a revised Food Industry Recall Protocol was released in September 2008. The publication provides a comprehensive guide to industry on carrying out food recalls and sets out the steps to be taken when food products have to be removed at the trade or consumer level for public health and safety reasons. It also includes details on how to write a food recall plan (a compulsory requirement under Standard 3.2.2).

In May 2010, FSANZ met with all State and Territory recall action officers to discuss recall-related issues with a view to identifying and resolving issues associated with the current recall system. FSANZ employed a business analyst consultant to help understand where the recall system can be streamlined and improved. The results of this work saw FSANZ launch an upgraded food recall system in March 2011.

At the international level, FSANZ is currently a participant in APEC food recall arrangements, and a member of the World Health Organization's International Food Safety Authorities Network. FSANZ is alerted to food recalls that occur in Canada, the United Kingdom and the United States through email services. These systems facilitate the rapid exchange of food recall and food safety related information between countries to facilitate more effective emergency responses. FSANZ also receives food safety notifications from the European Union's food rapid alert system.