



**FOOD STANDARDS**  
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**Office of the Chief Executive Officer**

Dr Kathleen Dermody  
Committee Secretary  
Senate Economics Legislation Committee  
PO Box 6100  
Parliament House  
**Canberra ACT 2600**

Dear Dr Dermody

I refer to your letter dated 1 April 2015 inviting Food Standards Australia New Zealand (FSANZ) to make a submission to the Inquiry into the provisions of the Competition and Consumer Amendment (Deregulatory and Other Measures) Bill 2015.

FSANZ is an independent statutory agency established by the *Food Standards Australia New Zealand Act 1991*. FSANZ is part of the Australian Government's Health portfolio. FSANZ is mainly responsible for developing and administering the Australia New Zealand Food Standards Code. FSANZ also plays a role in coordinating national food safety incidents and food recalls. FSANZ's role with food-related mandatory reports is limited to national monitoring and reporting.

The Australian Competition & Consumer Commission (ACCC) refers food-related mandatory reports directly to the relevant state or territory food enforcement agency (where consent from the supplier has been received), for possible action. FSANZ simultaneously receives copies of mandatory reports to identify any national issues/trends and to collate and report on mandatory reporting data at a national level. To date, the reports have not provided an early alert for any national food incident or food safety issue.

Since mandatory reporting commenced on 1 January 2011, FSANZ has received approximately 4,750 food-related mandatory reports, with around 100 being received each month. The majority of mandatory reports are received from businesses in the food manufacturing and retail sectors, followed by the catering sector; particularly from the major supermarket chains and fast-food chains. For example, the three major Australian supermarket chains account for 45% of all food related mandatory reports submitted.

While the link between a consumer good and an injury, illness or death may be clear with non-food goods such as a toy, it is often unclear with food. Food-related mandatory reports are mainly associated with alleged food poisoning (54% of all reports received). Persons who develop gastrointestinal illness will commonly link the illness with the last meal they ate or sourced from outside of the home. However, the likelihood that the food is responsible is low.<sup>1</sup> Food businesses are required to report these alleged illnesses within two days even though there is no evidence that there is a link between the food and the illness.

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<sup>1</sup> In the 2014 report, *Foodborne illness in Australia* by Kirk et al, it is estimated that 25% of episodes of gastroenteritis are transmitted by contaminated food. Incubation periods for foodborne pathogens that cause gastroenteritis are commonly 24-48 hours but can be as long as 5 days.

Confirmation of foodborne illness requires a food history and clinical testing, with results normally taking one-two weeks.

FSANZ receives monthly feedback from the majority of state and territory food enforcement agencies on actions and outcomes they have taken on the mandatory reports referred to them from the ACCC. Where feedback has been provided:

- almost 50% of reports received either do not contain sufficient information to enable further investigation by government or do not meet the criteria to be considered a mandatory report (and therefore should not have been submitted)
- 25% of the reports were considered to have been adequately investigated by the company and therefore no further action was required
- 10% are referred to other agencies because, for example, they do not relate to food
- 5% of reports are determined by government as needing follow up action but none have been associated with enforcement action
- 2% were associated with recall action.

The remaining reports were considered duplicates.

The state and territory food enforcement agencies are made aware of injuries, illness and deaths associated with food via:

- consumer complaints
- notifications from general practitioners of suspected food poisoning, particularly when occurring in two or more related cases
- notifications from laboratories of confirmed cases of foodborne diseases following clinical testing of persons suspected of having such diseases
- notifications from hospital emergency departments

Since mandatory reporting commenced in 2011, there is no evidence that the reports have provided the state and territory enforcement agencies with information on food-related injuries, illnesses and death that they were not already aware of or would have been aware of via other sources. The reports have also not provided an early alert to a national food safety issue. The vast majority of reports are associated with alleged food poisoning that if investigated, would be very unlikely to be associated with the food being reported. Many reports also do not contain sufficient information to enable the relevant enforcement agency to undertake further investigations.

FSANZ, therefore, supports the removal of this requirement for food from the Australian Consumer Law as it does not add value to existing reporting systems.

Yours sincerely

**Steve McCutcheon**  
Chief Executive Officer

/s/ April 2015