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Senator Sean Edwards
Chair
Senate Standing Committees on Economics
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Senator Edwards

The Brewers Association of Australia and New Zealand (Brewers Association) is pleased to provide a response to the Competition and Consumer Amendment (Deregulatory & Other Measures) Bill 2015 Inquiry.

Australian members of the Brewers Association comprise Carlton & United Breweries, Coopers and Lion Co that produce and distribute 95% of beer consumed in Australia.

The Brewers Association seeks to address the issue of mandatory reporting that is covered in the Bill. Specifically, the Bill seeks to remove the requirement for businesses to report serious injuries, illnesses or deaths associated with food products under the ACL's product safety law.

The Brewers Association supports this amendment as the notification requirement imposes a significant burden, and in many instances, in an environment where the business is not aware of all details.

Our members take their safety responsibilities seriously and are highly responsive to consumer complaints.

Reasons for our support

The current Mandatory Reporting regime requires food manufacturers to notify the ACCC of any death or serious injury or illness of any person within two days of becoming aware of the death or serious injury. Our concerns with this provision are as follows:

- **The two day notification period is unnecessarily arbitrary**.
  We appreciate the need for prompt action to be taken in the event of death or serious injury. However in many cases full information relating to the product is not known to suppliers at the time the initial notification is received. For example, consumers typically do not have pertinent details at hand such as the batch code, best before date or other production information necessary to make any meaningful decisions on product quality issues. This leads to Mandatory Reports being filed with incomplete information which is counter-productive to the intention of collecting such information. This problem is compounded during notification on weekends or public holidays.

- **Exemptions to reporting requirements for food suppliers are ineffective and unworkable.**
  Given that suppliers have a 2 day period within which to report, the exemptions sought to be provided to suppliers in relation to food-borne infectious diseases (sections 131(2)(c) & (d) and

132(2)(c)) are ineffective and unworkable. A supplier of food products is unlikely to know sufficient details of the reported illness (or, indeed, the specific contents of the relevant State and Territory Health Acts) to enable them to assess whether the specific illness suffered is one which another person is already required to notify.

- **In the context of alcoholic beverages, the threshold for notification is not appropriate**.
  Again, we appreciate the need for timely information to be provided to prevent any further death or serious injury. However, often consumers consult with medical professionals feeling unwell after consuming alcoholic beverages. In a number of cases, the product itself has no quality issues but the illness has been caused by irresponsible consumption.

- **"Misuse" of supplier's product.**
  The reporting requirement currently includes the (reasonably foreseeable) misuse of a supplier's product. We cannot see any logical reason why a supplier should be required to incur the cost and resources of such incidents (an example in the alcohol industry is a consumer dropping a bottle on their foot and seeking medical treatment).

- **The definition of 'serious illness' is somewhat ambiguous.**
  Under the ACCC Mandatory Reporting Guidelines, '*Serious injury or illness is defined to mean an acute physical injury or illness requiring medical or surgical treatment by, or under the supervision of, a qualified doctor or nurse.'* There have been instances where consumers have consulted with medical professionals if they felt unwell after consuming a product. The definition is unclear and leads to over-reporting. What is "acute" in these circumstances? What is "treatment" (is it mere attendance at and advice from a qualified medical practitioner? Does it require more, such as a formal diagnosis, provision of a prescription or referral, or application of a medicine or bandage?)?

- **Placing the obligation on suppliers does not have regard to the supply chain process**.
  In most cases, manufacturers of foods and beverages do not supply their goods directly to consumers. There are often multiple steps in the supply chain that the goods pass through – including potentially third party warehouses, customer warehouses, customer shelves and finally to consumers. Suppliers often do not have any control of these steps meaning that product quality issues occurring during the supply chain that relate in consumer injuries (e.g. damage to glass bottles etc.)

- **Most large FMCG companies have their own sophisticated process for tracking quality issues**.
  Other laws relating to product liability place parallel obligations on companies to ensure that any product quality issues are appropriately addressed, including by taking withdrawal or recall action where appropriate. These processes would typically occur even if no consumer death or serious injury was sustained (that is, a recall can be triggered simply due to the possibility of consumer injury). Therefore, the Mandatory Reporting requirements are effectively redundant.

Yours Sincerely,

Denita Wawn
Chief Executive Officer