Bayer CropScience

BioScience

Committee Secretary
Community Affairs Committee
Department of the Senate
PO Box 6100
Parliament House Canberra ACT 2600

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Dear Sir/Madam,

Inquiry into Food Standards Australia New Zealand Amendment Bill 2007

Thank you for the opportunity to comment on the above Bill. The following represent the views of Bayer CropScience Australia.

Bayer CropScience Australia, a subsidiary of Bayer AG with annual sales internationally of about EUR 6.0 billion, is one of the world's leading innovative crop science companies in the areas of crop protection, non-agricultural pest control, seeds and plant biotechnology. The BioScience division within Bayer CropScience is focused on providing sustainable, high value plant-based solutions for agriculture, nutrition, health and biomaterials. Presently the, BioScience division of Bayer CropScience is involved mainly in the development of Genetically Modified (GM) canola and cotton suitable for the Australian agricultural environment.

Bayer CropScience welcomes the proposed Amendment Bill and the majority of the proposed amendments. However, we provide below comments on specific paragraphs of the Bill which we consider merits further consideration for amendment.

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The following comments relate to **Schedule 1**.

Item 74 - section 31 (2) (c)
The submission period is undefined. A maximum period should be defined to provide certainty and predictability to industry.

Item 74 - section 85
We note the following inclusion in the explanatory notes:
Section 85 - Council may request a second review
This section replicates existing section 22 of the Act, but amends the language slightly to accord with the new assessment processes implemented through this Bill. The section provides that the Council can request a second review. The requirements and processes mirror those for a first review.
This retains the current operation of the Act but, subject to amendments to the Food Regulation Agreement and the Australia New Zealand Joint Food Standards Agreement, this second review stage will be removed (refer Schedule 3, Part 1).

We would like to emphasize that section 85 should be deleted in accordance with the note above.

Item 74 - section 84 (5) (b); section104 (1) (b) (ii);
Item 76 - section 113 (4) (b)
These provisions should be deleted. Any period undefined does not provide certainty and predictability to industry. The provisions to allow 3 months for review following Council request should be sufficient.

Item 76 - section 109 (10) (c)
We note that under this section an application can be suspended by the Authority for up to 18 months pending the formulation of policy by the Ministerial Council. We are extremely concerned that any application can be delayed for up to 18 months, on top of the normal statutory "consideration" period, including any period set aside for referral to Council. This delay is unreasonable and does not provide transparency and predictability of outcome. In terms of business plans the delay, which in many cases would be unforeseen, could be extremely damaging to a company.

We suggest the following alternative provisions:

(i) where the application has been submitted before the start of the policy review, allow the application to proceed to finalisation of approval with the proviso to the applicant that approval may be rescinded or amended, if necessary, following any contrary policy decision. It is envisaged that policy decisions at this point would not be related to human health and safety and finalising approval before a decision on a new policy should not compromise the risk assessment process.

(ii) where the application has been submitted after the start of the policy review, then the 18 month delay may apply as proposed.

General comment on the length of time taken to obtain approvals
It is our opinion that the maximum length of time that may be taken for an application to obtain approval through the steps described under Part 3 is excessively long. Apart from the "consideration" period, the legislation includes certain steps in the approval process at which the time-line is unspecified (see above). These could prolong the time taken for approval indefinitely. Based on current experience, the approval process has, in many instances, taken up to 2 years. The amendments in the Bill contain no provisions that could improve this time-line. The referrals to Council are cumbersome and unnecessary (*cf* the Gene Technology Act 2000, which does not require referral to the Ministerial Council for licence approvals).

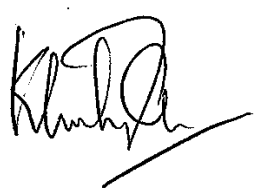
High Level Health Claims
It is envisaged that in the future GM crops might be developed that have improved health claims. Thus an application might be made for a variation to the standard as well as for a high level health claim. It should be made possible to address the two types of applications simultaneously in one consolidated application under the Act and for the assessment process to proceed concurrently.

The following comments relate to schedule 3.

Schedule 3 is supported except for the following comment relating to **item 5 - section 87 (1) (b) (ii):**
This provision should be deleted. Any period undefined does not provide certainty and predictability to industry. The provision to allow 3 months for review following Council request should be sufficient.

Thank you for your consideration of this matter. Should you require any further information or clarifications please do no hesitate to contact me directly on 03 9248 6857 or through my e-mail address (kay.khoo@bayercropscience.com).

Yours sincerely,
Bayer CropScience



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