

**A Submission to
Community Affairs Committee
Australian Senate**

**in response to the inquiry into
Food Standards Australia New Zealand Amendment Bill 2007**

**Prepared by
Dairy Australia**

18 April 2007

Dairy Australia, on behalf of the dairy industry, welcomes the opportunity to provide comment to the Australian Senate Community Affairs Committee in response to the inquiry into Food Standards Australia New Zealand Amendment Bill 2007.

Dairy Australia is the dairy industry's owned service company, limited by guarantee, whose members are farmers and industry bodies, including the Australian Dairy Products Federation (ADPF) and the Australian Dairy Farmers Limited (ADF).

Dairy Australia has been actively participating in the consultation to date and submitted a response in 2005 to the review of the Food Standards Australia New Zealand (FSANZ) processes in developing standards and food regulations. We have also made a submission regarding changes to the application procedures.

Please find below a summary of the Dairy Australia comments previously provided.

Dairy Australia supports the Australian Food & Grocery Council 'General comments' and 'Specific comments and concerns' on the inquiry into the FSANZ Amendment Bill 2007.

General Summary Comments:

Dairy Australia supports the changes proposed in the Bill:

- To simplify the general procedures to assess the different food regulatory applications and proposals according to their nature and scope, rather than a 'one size fits all' approach
- To align policy development by the Ministerial Council and Standards development and application assessment by FSANZ

- To align the processes for setting the maximum residue limits of the Australian Pesticides and Veterinary Medicines Authority and of FSANZ
- To encourage participation by the Australia and New Zealand Food Regulation Ministerial Council and Ministers early in the process of a proposal, by allowing only one option for review to be requested, subject to changes to the Food Treaty between Australia and New Zealand
- To introduce a new process for scientific pre-market assessment and approval of high level health claims, including the protection of confidential commercial information
- To introduce limited external review of decisions on assessment of food regulatory proposals.

Specific Comments on the Bill:

Notification of Rejection by Council

Dairy Australia feels food regulation communication would be more consistent if carried out by FSANZ. This would ensure that all information would be contained on the one internet site, and public notices would also be in the one place (Part 4, Section 86(5) (c), p.53, lines 7-9).

'Stop the Clock' for Policy Guidelines

Dairy Australia recommends that any such ability to 'stop the clock' while awaiting relevant policy guidelines by the Ministerial Council (Part 4, Section 109(9), lines 10-16) would need to be very up-front and transparent. We support the need for policy for complex issues but put forward that policy needs to be proactive and forward thinking and should occur early upon receipt of an application – not when an application is possibly nearing completion – where this approach could delay an outcome. Dairy Australia agrees with the AFGC that the applicant needs to have the opportunity for

external review through the Administrative Appeals Tribunal of the decision to 'stop the clock' for this reason.

Approval of an Application

Dairy Australia does not support the amendment so that FSANZ would be able to approve or reject an entire application within 15 days (Part 4, Section 26(1), lines 3-6). We have supported partial approval so that the applicant can communicate with FSANZ and receive feedback about which parts may or may not receive approval. Therefore with regard to Subsection 22(2)(c), Dairy Australia does not support rejection of an application if it fails to comply with all guidelines for an application. These guidelines may not be able to be met due to limited scientific data availability, overly prescriptive guidelines etc. Therefore the wording to reject an application for this reason should be omitted from the proposed Subsection 63(1), lines 29-31 and Part 4, Section 26(2) (a), p.27.

Other comments:

Engagement in Consultation Process

Dairy Australia firmly suggests that throughout the assessment process FSANZ needs to engage participants actively so that all parties understand the basis of decisions. Dairy Australia encourages the approach of meetings, discussions and updates with the appropriate and consistent person(s) throughout an application process.

Explicit function to provide information on the Food Standards Code

Dairy Australia commends FSANZ on their work providing information and advice on the Food Standards Code and on individual Food Standards and agrees that this is a useful service which should be formalised and recognized through the Amendment Bill.

Extend the “Exemption from Suit” provisions in the Act

Dairy Australia notes that it is proposed that FSANZ be allowed to carry out its functions, including providing information and advice – in ‘good faith’ without risking legal action. Dairy Australia puts forward that it should be the role of FSANZ to provide legal advice as FSANZ are the Standards making body and have an intimate and unique knowledge of the Food Standards Code as its writer. Dairy Australia believes that stakeholders should be able to request and receive legally binding advice.

We welcome the opportunity to provide comment. Please do not hesitate to contact me if you would like to discuss any of these comments further.

Kind regards,



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