



Submission to the FSANZ Review of the Food Standards Australia New Zealand Act 1991

16th November 2020

Seafood New Zealand Limited welcomes the opportunity to submit on the proposals as outlined in the Review of the Food Standards Australia New Zealand Act 1991 discussion document.

Seafood New Zealand is a professional organisation delivering industry good services for the wider benefit of the seafood industry. The Seafood Standards Council, an official committee of the Seafood New Zealand board plays a leading role in developing and presenting the seafood industry's response on legislative and regulatory proposals affecting the industry in the areas of seafood production and processing and food safety.

Response to Specific Questions

- 1. Is there still a compelling case for regulating food? What market failure(s) should governments seek to address through regulation of food?**

Yes – food regulation is critical for consumer protection. It is also critical for food businesses and food industries, and for the protection of trading systems. Food regulation must promote consistency, not only on a national basis but through global supply chains. Good food regulation must underpin the global food trading system.

- 2. Are there other significant focus areas that should be considered as part of the review?**

Nothing additional to add.

- 3. To what degree are the current legislated objectives an issue for the system? What are the types of problems that different stakeholders face as a consequence?**

We agree with the concerns raised in the discussion document regarding the lack of clarity and the evolving intent of the Act. The process for making changes to the current system is lengthy, the Act and associated food standards, need to allow for and be able to respond to changes in a timely manner to meet the needs of both the consumer and the food industry.

- 4. What would be the impact of implementing each of the reform ideas? How could the outcome specified for each idea best be achieved?**

Reform Idea 1

Define public health and safety in legislation to affirm the inclusion of long-term health and nutrition as a core objective.

Public health and safety and the application to the food industry must be defined in the Act. A clear definition and understanding will have a positive impact.

However, expanding the current focus on food safety and provision of information to managing long-term public health and nutrition impacts, while is likely to have a positive impact, it will also require significant more investment from the food industry, leading to a higher cost for consumers.

This needs careful consideration in terms of both the definition and the application to the food industry. There are many diverging views over what constitutes long-term health and nutrition, and healthy food in particular.

Reform Idea 2

Recognise trade as a core goal and reframe consumer choice as a factor to which FSANZ 'must have regard'

Both New Zealand and Australia operate in the global trading system and therefore we agree trade should be recognised in the food regulation system. The food industry needs consistency. Alignment with international standards and reducing variation across food regulation systems, allowing industries to be globally competitive will have positive impact.

Reform Idea 3

Establish criteria in the Act that the Forum must meet to request a review of a draft regulatory measure", and how could the outcome best be achieved

Criteria to request reviews should be stated, should align to the objectives of the Act and the ministerial guidelines and should ensure that the assessment process is able to be conducted in a timely manner.

5. Are there other potential issues or solutions relating to legislated objectives

Nothing additional to add.

6. To what degree are FSANZ's function (as currently stated in the Act) an issue for the system? What are the types of problems that different stakeholder groups face as a consequence?

It is important that the functions that FSANZ is to undertake are clearly defined. With respect to New Zealand, we have a robust, well respected food regulation system and believe that FSANZ's functions should be limited to the areas of standard setting where there is a clear joint interest and is of mutual benefit, however, that should not limit FSANZ's ability to expand functions in Australia if necessary to ensure a robust food regulation system applies across Australian states.

7. What would be the impact of implementing each of the reform ideas? How could the outcome specified for each idea best be achieved?

Reform 4

Amend the Act to better reflect the functions FSANZ currently delivers, particularly as they relate to supporting long-term health and nutrition?

As per Reform 1, long-term health and nutrition needs to firstly, be carefully defined in the Act. Any required function amendments should then be made to align to the Act definition. Consideration must also be given as to how the functions are currently being delivered in each country to determine if it is appropriate for FSANZ to lead the work for both New Zealand and Australia, or for Australia only.

However, it is understood from the discussion document that this is limited to FSANZ's activities in Australia only and is not considering this extension into New Zealand.

Reform 5

Amend s 13 of the Act to reflect a broader range of functions that FSANZ could deliver now and in the future" and how could the outcome best be achieved?

The food regulation system can be complex for individual food businesses to navigate when considering both the food standards that apply and the myriad of schedules referenced throughout. FSANZ should be able to use their knowledge and expertise to assist in standard interpretation or provide guidance in application of the technical aspects without it being in conflict as the standard setter.

In consideration of formally expanding FSANZ function, consideration must be given to ensure any expanded function is clear in its intent and does not duplicate current effort.

8. Are there other potential solutions relating to FSANZ's statutory function?

Nothing additional to add.

9. To what degree are the current processes for strategically reviewing standards an issue for the system? What are the types of problems that different stakeholder groups face as a consequence?

The lack of a strategic review means that standards can become out of date. Some standards are out of step with international risk assessments and standards, which adds complexity and often additional cost to food businesses.

A modern food regulation system that is outcome focussed, agile and responsive is needed in this rapidly changing world of food.

10. What would be the impact of implementing each of the reform ideas? How could the outcome specified for each idea best be achieved?

Reform Idea 6

Remove exemption of food standards from sunseting arrangements" and how could the outcome best be achieved?

We would support this. The current process of standard review is ad-hoc, generally inefficient and extremely lengthy to complete.

Reform Idea 7

Resource FSANZ to undertake regular, more holistic reviews of food standards" and how could the outcome best be achieved?

We would support this.

11. Are there other potential solutions relating to the timing of the reviews of food standards?

Ensuring the legislation is structured correctly and simplifying the process for undertaking the reviews or making changes.

12. To what degree are the current statutory application and proposal processes an issue for the system? What are the types of problems that different stakeholder groups face as a consequence?

The current rigid process is lengthy, expensive, prescriptive, and requires significant effort even for minor changes. This prevents the food regulation system from being agile and easily able to adapt to change.

13. What would be the impact of implementing each of the reform ideas? How could the outcome specified for each idea best be achieved?

Reform Idea 8

Reframe legislation to support more agile, risk-based processes" and how could the outcome best be achieved?

This is absolutely needed. Moving requirements into regulation that can be changed without parliamentary process, along with recognition of categories of risk to apply to applications is essential to creating an agile food regulation system.

Reform Idea 9

Redefine the decision-making arrangements to support timelier and more efficient sign-off of regulatory measure.

We support this approach, providing due consideration is given to a structured risk framework. Low and medium risk applications could be managed by technical experts where high-risk applications should be considered by the Forum and Board.

14. Are there other potential solutions relating to streamlining current legislative process to develop or vary regulatory measures?

Nothing additional to add.

15. To what degree is the current approach to using only applications and proposals to develop or vary food standards an issue for the system? What are the types of problems that different stakeholder groups face as a consequence?

To reiterate, the current rigid application and proposal process is lengthy, expensive, prescriptive, and requires significant effort even for minor changes, and prioritisation does not occur in a timely manner.

16. What would be the impact of implementing each of the reform ideas? How could the outcome specified for each idea best be achieved?

Reform 10

Provide for FSANZ to adopt or accept risk assessments from overseas jurisdictions?

FSANZ should be enabled to adopt or accept risk assessments from overseas jurisdictions where they relevant to the issue under consideration and have been completed with integrity. A framework could be established to assess these to determine that. However, assessment of an already completed risk assessment is much more efficient than undertaking a risk assessment itself.

Reform 11

Enable FSANZ to adopt international standards

Yes, FSANZ should be enabled to adopt international standards such as Codex, where it is appropriate and relevant for the New Zealand and Australia situation and due consideration to any potential impact has been given.

Reform 12

Create industry-led pathways to expedite applications and bring new products to market.

Yes, this should be considered, providing a robust framework for assessment was established.

17. Are there other potential solutions relating to adding pathways to develop or vary regulatory measures?

Nothing additional to add.

18. To what degree is the current alignment between policy development and standards setting an issue for the system? What are the types of problems that different stakeholder groups face as a consequence?

Misalignment between policy settings or the development of policy and standard setting causes frustration and delays in seeking change. This can also impact on a food business's ability to adapt to changing consumer or market demands.

19. What would be the impact of implementing each of the reform ideas? How could the outcome specified for each idea best be achieved?

Reform 13

Facilitate joint agenda setting between FSANZ and the Forum" and how could the outcome best be achieved?

We would support the approach for FSANZ and the Forum to undertake joint priority setting and to align policy and standard setting.

Reform 14

Amend statutory timeframes to support more strategic prioritisation of work

We would support the approach to amending statutory timeframes to specifically support strategic prioritisation, which should also be aligned with risk and/or trade issues.

20. Are there other potential solutions relating to streamlining current legislative process to develop or vary regulatory measures?

Nothing additional to add.

21. To what degree does inconsistent interpretation of food standards present an issue for the system? What are the types of problems that different stakeholder groups face as a consequence?

As previously stated under question 7, the food regulation system can be complex for individual food businesses to navigate. This complexity is a significant compliance cost for food business requiring additional time and often external expertise to address.

22. What would be the impact of implementing each of the reform ideas? How could the outcome specified for each idea best be achieved?

Reform 15

Enhance FSANZ's role in providing guidance about food standards within its current statutory remit?

We support this approach – particularly in relation to the provision of 'plain English' guidance to interpret the standard. It is also necessary when developing guidance to have clarity on what is the standard verses what is guidance.

Reform 16

Provide for FSANZ to give binding interpretive advice on food standards.

FSANZ should be able to use their knowledge and expertise to assist in standard interpretation or provide guidance in application of the technical aspects without it being in conflict as the standard setter.

Reform 17

Enhance FSANZ's regulatory role by providing limited enforcement power.

We would not support this for New Zealand.

23. Are there other potential issues or solutions relating to interpretation of food standards?

Nothing additional to add.

24. To what degree is the food-medicine interface an issue for the system? What are the types of problems that different stakeholder groups face as a consequence?

As mentioned in the discussion document the boundaries between food and medicine, and their respective regulatory frameworks are not always clear. There are a number of seafood products that can move into this space, although the current New Zealand legislation for managing dietary supplements is working.

25. What would be the impact of implementing each of the reform ideas? How could the outcome specified for each idea best be achieved?

Reforms 18 - 20

These need further careful consideration to determine the best course of action. While any additional clarity and alignment across regulatory systems is a positive thing, it also needs to ensure it doesn't increase the compliance cost for industry or stifle innovation.

26. Are there other potential solutions relating to improving the food-medicine interface?

Nothing additional to add.

27. To what degree are FSANZ's governance arrangements an issue for the system? What are the types of problems that different stakeholder groups face as a consequence?

The fact that decisions around standards must be made by the board as these are non-delegable duties, can impact on FSANZ's ability to act and respond in a timely manner.

28. What would be the impact of implementing each of the reform ideas? How could the outcome specified for each idea best be achieved?

Reform 21 – 23

Streamlining the nomination and appointment process, establishing minimum term lengths and reducing the board size, should be considered as one process. However, any amendments to the process must ensure the board members are selected on the basis of ensuring the required skills, knowledge and expertise are around the table. A smaller board can allow for more efficient and timely making but this needs to be balanced with ensuring the above is met.

29. Are there other potential solutions relating to FSANZ's governance arrangements?

Nothing additional to add.

30. To what degree does FSANZ's approach to setting its own workplan and resourcing its work present an issue for the system? What are the types of problems that different stakeholder groups face as a consequence?

There is no issue with FSANZ setting its own work programme, providing that it aligns with meeting industry need and the agreed strategic objectives. As highlighted throughout this review, there are a number of changes required that would improve the system.

31. What would be the impact of implementing each of the reform ideas? How could the outcome specified for each idea best be achieved?

Reform 24 – 25

Careful consideration needs to be made around cost recovery as it is not suitable for all situations. The broader public good must be considered a large part of many proposals and applications submitted as they are designed to improve the food standards and strengthen the food regulation system.

32. Are there other potential solutions relating to FSANZ's operations?

Nothing additional to add.

33. What are the top 2-3 most pressing issues to resolve through change to the Act and associated operations and responsibilities of FSANZ?

A modern food regulation system that is outcome focussed, agile and responsive is needed in this rapidly changing world of food.

To do that the rigid process for making changes to food standards must be streamlined and timely.

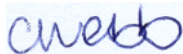
34. Are there any key issues or challenges related to FSANZ and the Act that are not represented in this scoping paper?

Nothing additional to add

35. What other reform ideas should be considered to address the issues identified in the paper, assuming no resource constraints?

Nothing additional to add.

Yours sincerely



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