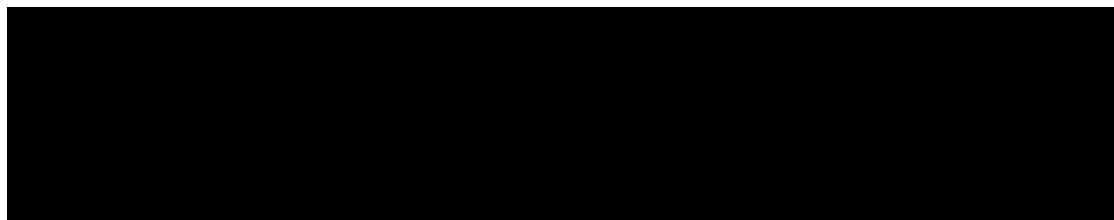


Submission to proposal P1052

**Food Standards Australia New Zealand
(FSANZ)**

February 2022



About Growcom

Growcom is the peak representative body for the fruit, vegetable and nut growing industries in Queensland, providing a wide range of advocacy, research and industry development services. We represent the second largest and fastest growing agricultural sector in Queensland. And as a state, we deliver approximately one third of all horticultural value of production nationally.

We are the only organisation in Australia to deliver services across the entire horticulture industry to businesses and organisations of all commodities, sizes and regions, as well as to associated industries in the supply chain. We are constantly in contact with growers and other horticultural business operators. As a result, we are well aware of the outlook, expectations and practical needs of our industry.

The organisation was established in 1923 as a statutory body to represent and provide services to the fruit and vegetable growing industry. As a voluntary organisation since 2003, Growcom now has grower members throughout Queensland and across Australia, and works alongside other industry organisations, local producer associations and corporate members.

To provide services and networks to growers, Growcom has over 20 staff located in Brisbane, Bundaberg, the Sunshine Coast, Innisfail, and Toowoomba. We are a member of a number of state and national industry organisations and use these networks to promote our members' interests and to work on issues of common interest.

Background

In June 2018, the then Australia and New Zealand Ministerial Forum on Food Regulation, now the Food Ministers' Meeting, noted the increase of foodborne illness outbreaks in Australia and requested that FSANZ reassess food safety risk management across three horticultural sectors.

In response, FSANZ raised proposal P1052 - *Primary Production and Processing Requirements for Horticulture (Berries, Leafy Vegetables and Melons)* to consider the need for regulatory and non-regulatory food safety risk management measures in these sectors. The work is part of a broader review of chapter 3 and 4 of the Food Standards Code.

Proposal P1052 is being assessed under FSANZ's major procedure, which requires two rounds of public consultation. FSANZ completed a first round of public consultation in February-March 2020.

In a second round of public consultation, FSANZ is calling for comment on all four options including the preferred approach to amend the Australia New Zealand Food Standard Code to include a primary production and processing standard for each of the three sectors, and introduce non-regulatory measures in collaboration with industry to assist businesses to understand and comply with the standards.

This submission is the Growcom response to this second round of consultation.

Response

Growcom is committed to food safety policies and programs that are credible, practical, national, cost effective and suitable for all produce. Wherever possible, we are committed to food safety policies and programs that are industry owned.

We are committed to working with stakeholders to ensure that consumers are provided with the safest food possible and that they have the information required to see that growers are fulfilling this need and promoting better business practices through the implementation of food safety and quality systems to assist growers in guaranteeing the safety of their produce.

We expect that governments and their regulatory and standard setting agencies will work with industry to develop food safety policies that meet both consumer and industry needs. Systems need to ensure that when properly applied, food safety programs prevent problems arising with produce, while remaining as streamlined as possible to reduce compliance costs. We expect that imported produce will need to adhere to the same food safety standards as Australian grown produce. There will also be shared food safety responsibility throughout the value chain from growers to consumers.

We also expect that industry groups, government and the value chain will work together to quickly act to defuse and reduce any negative effects of food safety claims, legitimate or otherwise, and to provide consumers with accurate technical information on food safety issues.

Primacy of self-regulation

The Australian Government Taskforce on Industry Self-Regulation (2000) found Australia was at that time at the forefront of international policy initiatives to promote regulatory reform and effective self-regulation.

The Taskforce found that self-regulatory schemes tend to promote good practice and target specific problems within industries, impose lower compliance costs on business, and offer quick, low cost dispute resolution procedures. Also that effective self-regulation can also avoid the often overly prescriptive nature of regulation and allow industry the flexibility to provide greater choice for consumers and to be more responsive to changing consumer expectations.

The Taskforce found an industry environment with active industry associations and higher degrees of industry cohesiveness are most likely to administer effective self-regulation as industry participants are more likely to commit financial resources, consult with stakeholders and monitor the effectiveness of self-regulation.

This can be said to be true of the Australian fresh produce sector, which has led the way with regard the regulation of its own food safety standards and practices in the interests of ensuring consumers have confidence in our product.

Existing effective self-regulation is rare and unique, and for the above stated reasons should be promoted wherever possible. It is therefore not enough that proposed government regulation is neutral with regard impacts on the health, viability and usefulness of existing and competing self-regulatory mechanisms.

It is the Growcom view that the fresh produce sector have a choice between maintaining self-regulation or adhering to regulation, not an imposition of both self-regulation and regulation.

We believe there is an obligation on regulators to work with Food Safety Scheme (FSS) owners to make this choice both real and complete. For example, where there is a requirement on producers to identify themselves as growers of a particular commodity, they should be able to rely on their FSS to complete this on their behalf.

No grower compliant with a FSS standard should need to do anything other than maintain their compliance with this scheme in order to meet the requirements of regulation.

The regulatory burden on the Australian horticulture industry is immense. This burden alone is cited by many growers, particularly those of smaller size, as the sole reason that has caused them to exit the industry. Regulatory burden has a cumulative effect. While the costs to industry of any singular new regulatory requirement may be small by itself, this cost needs to be seen in the context of the total burden imposed by multiple agencies and authorities across the three levels of government.

Unproven effectiveness

The principles of good regulatory practice and regulatory assessment requirements outlined by COAG apply to decisions of COAG, Ministerial Councils and intergovernmental standard-setting bodies, including FSANZ.

The principles require once a problem has been examined and a case for government intervention has been established, that objectives for any intervention be identified and all feasible options considered, of both a regulatory and non-regulatory nature, which could wholly or partly achieve these objectives. Working from an initial presumption against new or increased regulation, the overall goal is the effective and efficient achievement of the stated objectives.

The principles require a rigorous regulation impact assessment of all the feasible policy options available to address the identified problem. Decision makers should adopt the option which provides the greatest net benefit to the community. Decisions about whether regulatory action is in the public interest should be informed by an assessment of the effectiveness of the proposed action in meeting the identified objective, and the costs and benefits of the proposed action for the community as a whole.

We note in the Cost-benefit analysis (CBA) that the efficacy of the non-regulatory options has not been analysed, and that FSANZ has taken the view that without “regulatory backup” of notifications, licensing and audits, non-regulatory guidance is likely to have very marginal impacts. We question whether this view is true given upwards of 70 percent of the berry industry estimated to already be adhering to a voluntary FSS.

The assumption that industry coverage by FSS has reached a maximum, and cannot be increased through further investment in education and awareness raising, and without the “regulatory backup” should be tested.

Likewise, the CBA makes a number of assumptions about the relative efficacy of regulatory interventions for each of the three commodities without providing any of the underpinning evidence in support of these assumption.

It appears an assumption has been made that regulation will be far more efficacious in those commodities with lower adherence to a voluntary FSS. This does not account for the likely situation that enforcing compliance with regulation will confront the same challenges as promoting voluntary adherence with self-regulation in each commodity, for the same reasons.

Given that a decision to impose regulation needs to be based on effectiveness and not a balance of costs and benefits alone, given the assumptions that have been made, and given the principles of good regulatory practice requires that regulation remains relevant

and effective over time, Growcom recommends the preferred approach, if approved, be reviewed within two (2) years of implementation.

Implementation

Growcom is of the view that two (2) years is required to properly implement the proposed approach of combined regulatory and non-regulatory measures. Growers need time to adapt, regulatory authorities need time to educate and inform affected businesses of new requirements, and state and territory authorities need this time to design appropriate monitoring and enforcement regimes.

This period will also allow time for FSS owners to adapt their products with a view to eliminating any additional regulatory burden placed on growers.