Queensland Government

Queensland Health

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19 August 2022

Standards Management Officer
Food Standards Australia New Zealand
PO Box 5423
Kingston ACT 2604

Dear Sir / Madam

Submission – Application — A1251 - 2'-FL combined with galacto-oligosaccharides and/or inulin-type fructans in infant formula products

Thank you for the opportunity to provide a submission on the Call for Submissions paper for Application A1251.

This submission provides comments on the proposed changes to the *Australia New Zealand Food Standards Code* (the Code) and was prepared with input from health professionals from Preventive Health Branch and Food Safety Standards and Regulation. The submission does not represent a Queensland Government position, which will be a matter for the Queensland Government should notification be made by the FSANZ Board to the Food Ministers' Meeting.

Application A1251 has been prepared to consider permission to permit the voluntary combination of 2'-fucosyllactose (2'-FL) with galacto-oligosaccharides (GOS) and/or inulin-type fructans (ITF) in infant formula products.

The Queensland Government remains committed to protecting, promoting, and supporting breastfeeding and optimal infant nutrition. It is also recognised that infant formula and other breastmilk substitutes have a legitimate role to play in circumstances where an infant cannot be breastfed. The Department continues to support the *Ministerial Policy Guideline on the Regulation of Infant Formula Products,* which recognises there is a greater level of risk for infants. In line with FSANZ's primary objective of protecting public health and safety, it is important that the primary objective remains to ensure infant formula is safe for infants to consume, has a nutrient composition that supports expected growth and development, particularly when it is an infant's sole source of nutrition (i.e. from birth to around 6 months), and improves health outcomes of formula-fed infants. Whilst alignment of Australian and New Zealand standards with international regulations is important, the health and safety of infants must be the priority. Therefore, whilst industry innovation should be facilitated by regulations, this must advance the health outcomes of formula fed infants closer to breast fed infant health outcomes. Broad innovation by industry which does not positively

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influence a reduction of adverse health effects in formula fed infants, may lead to the promotion of unnecessary consumption of infant formula products (IFP) with resultant negative impacts on breastfeeding rates.

FSANZ throughout the CFS refer to Infant Formula Products having a nutrient composition to support **normal** growth and development. However only human breastmilk supports normal growth and development of human infants. Different growth trajectories are experienced by infants fed artificial baby milks in comparison to human breastmilk-fed infants and these different growth trajectories are widely accepted and well documented. It is proposed that the wording throughout the CFS is amended to 'expected growth and development' to replace 'normal growth and development' (Centers for Disease Control and Prevention (2022) *Breastfeeding as the Norm for Infant Feeding*. Retrieved from https://www.cdc.gov/nccdphp/dnpao/growthcharts/who/breastfeeding/index.htm).

Concern is raised regarding the proposed exclusivity in the CFS (Section 2.2.4) as this may create an unfair playing field when this is really a recombination of existing permissions. The Department questions whether this is appropriate when the commercial benefit has been captured previously, the individual ingredients are already permitted, and the relied upon safety studies appear to be also funded by other bodies or companies. Concern is raised that accepting the exclusivity on this occasion may create a precedence for granting exclusivity for recombinations of substances already permitted by the Code. This goes beyond the original intent of allowing businesses to help recoup research and product development costs. Allowing the exclusivity may also result in FSANZ receiving multiple applications for minor changes to formulations of oligosaccharides, which would create more work for FSANZ, increase industry costs through the need to develop new applications to amend the Code and potentially lead to greater complexity in the permissions for oligosaccharides in infant formula.

In the CFS (Section 2.4.1.1) FSANZ notes that domestic consumers may benefit from increased variety of Infant Formula Product for sale. We question whether this may be viewed as an advantage or alternatively a disadvantage as this may simply cause confusion at a consumer level.

Should you require further information in relation to this matter, please contact Food Safety Standards and Regulation, Health Protection Branch, Department of Health on ([redacted]

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