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CMA submission to FSANZ call for comment: Proposal P1057 - Review of the kava standard

Complementary Medicines Australia (CMA) appreciates the opportunity to provide feedback on the call for comment on the review of the kava standard, to inform FSANZ's decision on whether to reaffirm the variation, or to prepare a proposal to amend the variation, repeal the variation, or to amend other variations to the Code.

CMA is the peak body of the complementary medicines sector, representing approximately 80% of the sector by sales of complementary medicines. Our members include stakeholders across the value chain, including manufacturers, raw material suppliers, distributors, consultants, retailers, and allied health professionals.

CMA recognises the long history of consumption of Kava beverage; the significant history of safe use in the Pacific; and the important role of kava in traditional community ceremonies, demonstrating it is possible to safely consume kava beverage in moderation for traditional and recreational purposes.

Consultation

A variation of the Code was approved in March to:

- Add a requirement that kava food products must only be obtained from the Noble varieties of the species of *Piper methysticum* that are named in the Codex Regional Standard for Kava; and
- Explicitly prohibit the addition and use of food additives and processing aids in the manufacture or processing of dried or raw kava root and kava beverages.

FSANZ's 12 month assessment of the approved variation, in accordance with *Food Standards Australia New Zealand Act 1991*, has concluded that it is appropriate to reaffirm the variation.

Require kava to be sourced only from Noble varieties

The amendment to the Code to require that only Noble kava cultivars named in the Codex Regional Standard for Kava, being the safe varieties for food use, are permitted as sources of kava is consistent with international standards such as the Codex Regional Standard for Kava, Vanuatu's Kava Act (2002) and national kava standards of Vanuatu, Fiji, Samoa and Tonga.

CMA Response: If this is introduced, CMA recommends a market survey should be conducted and stakeholders worked with to ensure there are transitional or other necessary arrangements in place.

Prohibition on the use of processing aids and food additives

FSANZ's initial consideration report noted that there are a number of kava products including beverages available that include unspecified flavourings; and that it was mentioned on product websites that the addition of flavours to the instant kava powder (processed to micronise the size of the powder particles or freeze dried) to produce the kava beverage was to make the drink more palatable. The report also provides that it was mentioned on some websites that the kava powder could be mixed directly with water or a soft drink (which would be inconsistent with the Code permissions) and that these factors raised an additional question about whether processing aids are required for the processing to produce micronised or freeze dried kava powders.

The initial consideration report also stated that Government agencies responsible for the application and enforcement of the Code expressed concern that the absence of an express prohibition in the Code on the use of food additives in kava food products, coupled with the broad nature of the Code's food additive permissions, could lead to claims by stakeholders that they are permitted.

FSANZ's stated policy intent for Standard 2.6.3 and its regulation of the use, sale and consumption of kava was to only permit the consumption of the traditionally prepared kava beverages and the use of kava as a food for traditional preparation and use. This intent is stated in FSANZ's Final Assessment Report for P256 (FSANZ 2004), which reviewed Standard 2.6.3. Permitting the use in kava of substances that are not traditionally used in kava preparation and which are found in commercially manufactured food products is at odds with that policy.

CMA Response: CMA supports option 2: *Prepare a proposal to repeal or amend the variation, or amend other provisions of the Code.*

We note that the regional Codex kava standard does not mention processing aids, either to exclude or permit their use, but explicitly prohibits the addition of food additives to products covered by the standard, i.e. fresh or dried kava products used to prepare a kava beverage when mixed with potable water, not the kava beverage itself. However, the reasons for this are unclear and are not provided in the Codex standard.

While CMA supports the safe use of kava, some manufacturers may add small amounts of flow agents or other excipients to maintain the desired compositional characteristics (such as free flowing powder) or stability of the goods in a commercial context. This aspect of the Kava standard requires review, via the preparation of a proposal to repeal or amend the variation, or amend other provisions of the Code, to permit the safe use of certain additives and processing aids.

Assessment of labelling matters

The Code requires dried or raw kava root or a beverage in a package for retail sale to have a label with the following warning statements: • *Use in moderation* • *May cause drowsiness*. The application of warning statements to foods is exempt in some circumstances, e.g. bowl of kava beverage.

CMA Response: CMA supports FSANZ's decision to maintain the existing warning statements for permitted kava foods, and considers it a pragmatic approach to not propose additional warning statements due to a lack of sufficient evidence to justify such a proposal at this time. Particularly considering the kava pilot is for a two-year duration, and may warrant additional approaches or amendments at the end of that time, anticipated 1 December 2023.

