



## SUBMISSION

To: **Food Standards Australia New Zealand**

In response to: Consultation Paper - Proposal P1024 – Revision of the Regulation of Nutritive Substances & Novel Foods

**28<sup>th</sup> July 2017**

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## PREFACE

H.J. Heinz Company Australia Limited (**Heinz Australia**), Heinz Wattie's Limited in New Zealand (**Heinz Wattie's**) and Golden Circle Limited (**Golden Circle**) are part of The Kraft Heinz Company global group of companies. Heinz Australia, Heinz Wattie's and Golden Circle in this submission are collectively referred to as "**KHC**".

KHC is one of the world's leading producers of convenient foods for every eating occasion and has been feeding families for more than 100 years. KHC operates across the retail grocery and out of home channels, including hospitality and healthcare, and maintains #1 or #2 share in key categories including baby food, baked beans, tomato sauce and 'wet' soup.

With combined experience of over 140 years, KHC provides a positive presence in the Australia and New Zealand grocery products industry.

KHC offers a diverse portfolio of brands, including:

Heinz	Wattie's	Golden Circle	Kraft
HP	Lea & Perrins	Greenseas	PMU
Epicure	Farex	Tom Piper	Hamper
Imperial	Ox & Palm	Petdeli	Champ
Chef	Pacific	Crown	LOL
Craig's	Oak	Original Juice Co.	Popper
La Bonne Cuisine®	Mediterranean	Little Ripper	Gourmet
Breton	Master Chef	Wild Boy	Ice Magic
The Good Taste Company		Nurture	
Cottee's (toppings, jelly and jams only)			

KHC also manufactures and/or distributes products under licence from:

Weight Watchers	Complan
Eta	Rose's (jams only)

The KHC product range includes:

infant food & snacks	frozen vegetables	baked beans	canned pasta
infant formula	fruit drinks	ketchup & sauces	soup
fruit juice	cordial	bottled water	corned beef
jams, jelly & toppings	frozen meals	canned seafood	canned fruit & vegetables

KHC is a member of the New Zealand Food & Grocery Council (**NZFGC**), the Australian Beverages Council Limited (**ABCL**), and the Infant Nutrition Council Australia New Zealand (**INC**). Positions are held on various working groups, and KHC contributes by preparing submissions, providing opinions and sharing information, and strives to keep abreast of current and upcoming regulatory issues.

## SUBMISSION

KHC welcomes the opportunity to comment on the consultation paper for P1024 Revision of the Regulation of Nutritive Substances and Novel Foods. KHC supports clarification of the current regulation, the promotion of innovation and the protection of public health and safety.

KHC recognises that there are still a number of issues in relation to the eligible food criteria and the proposed framework that must be developed after consideration of the responses to this paper, and supports the opportunity for further consultation before work on drafting a proposed regulatory measure proceeds.

## OVERALL POSITION

KHC **supports** the removal of the current definitions of nutritive substance and novel foods from the Code, the replacement with alternative arrangements and the inclusion of clear definitions for 'eligible food'.

KHC **does not support** the removal of a self-assessment pathway innovation on that basis that (after significant research and development investment) flexibility and speed to market is key to generating the return on that investment. We strongly recommend that pre-market assessment and notification by industry (self-assessment) continue to be developed.

## PROPOSED APPROACH

Will the removal of permissions from Schedule 25 create problems relating to requirements for specifications for these foods?

Which of the novel foods listed in Schedule 25 are used only in foods regulated by specific Part 2.9 standards?

Are there other issues associated with removing permissions from Schedule 25? Please elaborate.

KHC **supports** the removal of permissions from Schedule 25 where there are not specific conditions of use.

Do you consider other nutritive type substances (in addition to vitamins, minerals, electrolytes and L-amino acids) should always be subject to pre-market approval by FSANZ? Please provide reasons for your view.

KHC **supports** the removal of the definition 'used as a nutritive substance' due to its potential to restrict innovation.

KHC **does not support** other nutritive type substances (in addition to vitamins, minerals, electrolytes and L-amino acids) always be subject to pre-market approval by FSANZ. The opportunity for self-assessment with notification should be developed for nutritive type substances that are not vitamins, minerals, electrolytes and L-amino acids (such as dietary fibre sources) as an alternative to pre-market approval by FSANZ.

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Does there remain a requirement to provide exclusive permission as a condition of use in the Code?

What costs to the community, Government and industry arise from the grant and use of exclusive permissions? Please provide data if possible.

What direct and indirect benefits to the community, Government and industry arise from the grant and use of exclusive permissions? Please provide data if possible.

Why should Australian and New Zealand food laws make Australian and New Zealand food regulators bear the onus and cost of protecting industry's intellectual property in products being sold commercially?

Why are other existing measures (such as intellectual property laws allowing a patent or innovation patent) not adequate to protect industry's investment in developing commercial food products?

What other alternatives exist to protect industry's investment in developing commercial food products (i.e. other than reliance on the Code and Australian and New Zealand food laws)?

Is the current 15-month period applied to exclusive permissions sufficient? If 15 months is not considered sufficient, please explain why this is the case and what period of time would be sufficient and why. Please provide data if possible.

Does the innovation activity your business undertakes typically occur in Australia or New Zealand? Will this change if the period for exclusive permissions are increased and, if so, how and why? Please provide data if possible.

Does your business typically place new products on the market at the same time or before placing them on the market in larger overseas markets? Please provide examples or data if possible.

**KHC supports the retention of a requirement to provide exclusive permission as a condition of use in the Code.**

**KHC supports the expansion of the current 15-month period applied to exclusive permissions for the purposes of commercial viability.**

The innovation activity within KHC can typically occur in Australia or New Zealand, but can also occur in the USA or Europe. It is unknown if this will change if the period for exclusive permissions are increased.

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Please indicate whether you support the 'grandfathering' of foods which are available for sale in Australia and New Zealand at the time of gazettal (of a new framework in the Code).

Do you consider there are categories of foods that should not be grandfathered? If so, please provide justification for your view.

Would the proposed approach for microorganisms present problems for your business? If so, please elaborate.

**KHC supports the 'grandfathering' of foods which are available for sale in Australia and New Zealand at the time of gazettal. KHC is not aware of any categories of foods that should not be grandfathered.**

**KHC supports the idea that all foods produced with live food culture microorganisms sold in Australia and New Zealand at the time of gazettal are 'grandfathered' and not subject to the new framework.**

**KHC does not support microorganisms added for a purpose other than as a 'food culture microorganism' be subject to pre-market assessment.**

**KHC does not support the creation of a positive list of products being grandfathered as it may not be broad enough and has the potential to be restrictive.**

**For further information, please contact:**

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