



**Submission to**

**FOOD STANDARDS AUSTRALIA NEW ZEALAND**

**IN RESPONSE TO**

**PROPOSAL P1025: CODE REVIEW**

**26 SEPTEMBER 2013**

## **Executive Summary:**

Cerebos holds particular concern regarding the specific regulatory impact of its business in Australia, New Zealand and expanding export markets by proposed changes to the Food Standards Code.

Cerebos manages more than 1400 PIFs across its Australia and New Zealand businesses and holds over 500+ SKU. Ramifications of a renumbered code are therefore costly and disruptive to business.

Cerebos is therefore concerned with the potential cost impact on industry and consumers resulting from the implementation of the draft of the Australia New Zealand Food Standards Code (the Code) as set out in P1025 arising from costs of -

- Documentation – amendment and updating Code references in documentation relating to food safety and quality systems and supplier management;
- Training of staff within businesses in the revised Code; and
- Impact on other legislation or regulatory requirements
- Disruption during initial period and throughout transition, especially in relation to export arrangements.

Key documents that would be affected by the revised Code include:

- Product Information Forms (PIFs) used by companies to collect and store information about ingredients and finished products used in their business; and
- Food Safety and Quality System documents ('controlled documents'), including documentation related to food policy and regulation
- Training subsequent to proposed changes and during transition would be required on two levels:
- People who make decisions as part of their day to day work which require them to thoroughly understand the Code; and
- People who would need to be made aware that the Code has changed.

Benefit of the proposed changes do not appear to deliver the intended outcome in support of achievement of compliance. Further work needs to be conducted with support from stakeholder groups to achieve acceptable outcomes.

## **Introduction**

**Cerebos thanks Food Standards Australia New Zealand for the opportunity to make a submission in response to the release of *Proposal P1025 Code Review*.**

Cerebos ANZ consists of two companies: Cerebos Gregg's Ltd in New Zealand and Cerebos Australia Pty Ltd in Australia. This submission encompasses the response from both companies and is communicated by the Regulatory Affairs Technologist, based in Sydney. For the purpose of this proposal, Cerebos ANZ will be referred to as "Cerebos".

Cerebos is one of the major food manufacturing companies in Australia and New Zealand and we have built our reputation on several well-respected and long established household brands. Our brands include: Raro, Refresh, Cerebos, Whitlocks, Gregg's, Robert Harris, Essential Cuisine, Fountain, Gravox, Foster Clark's, Tandaco, Mocopan and Saxa.

Cerebos Australia Pty Ltd is a founding member of the Australian Food & Grocery Council.

- As a member of The Australian Food and Grocery Council (AFGC), Cerebos defers to this industry association in relation to many aspects of the proposed changes and inaccuracies already identified and opportunity for further stakeholder engagement.
- A number of key points which we strongly support include:
  - o **The policies underlying Proposal P1025** Code Review (P1025), as published by Food Standards Australia New Zealand (FSANZ). A clearer, more consistent and enforceable Food Standards Code is in the interest of all food system stakeholders. It is envisaged the benefit will be in addition to a proportional to the cost of changes.
  - o The policy goals of P1025 can be achieved in a structure that more closely aligns with the existing Code and thus minimises the disruption and costs to Code users. Cerebos **does NOT support the proposals to consecutively renumber all provisions in each Chapter, nor the indiscriminate removal of schedules and tables to the end of the proposed Code.** However, some of the proposed innovations are recognised as being useful developments, and **Cerebos supports the introduction of new interpretative provisions and the inclusion of a Code dictionary.**
  - o **The recommendation that a two year commencement period** for any resulting new Code from the date of its gazettal. This allows time for necessary training and documentation review and update.
  - o **Considers necessary both a regulatory impact assessment (RIA) and World Trade Organization (WTO) notifications** in relation to P1025.

**Two areas in which Cerebos would like to make specific comments on Proposal P1025 Code Review are in relation to the (i) legal policy issue and (ii) implementation issues.**

**i) Legal Policy Issue**

- Cerebos **strongly supports** the goal of enforceability for the Code. Regulatory compliance cannot be optional, it must be an even playing field where all food importers, manufacturers, packers and retailers are bound by the same basic laws
- Cerebos **strongly supports** the need for clarity in the drafting of the Code to ensure the usability of the code.

The principal users of the Code, in terms of wide compliance, are technical and regulatory compliance staff working in the food industry, tasked with specifying and formulating products and designing labels and packaging.

The Code as proposed in P1025 does NOT properly recognise the need for the Code to be used efficiently and effectively by this key stakeholder group. The provisions relating to the information to be provided in relation to unpackaged food, for example, are likely to be confusing or even seen as contradictory.

- Cerebos **strongly supports** the need for uniformity in how the Code is interpreted and applied throughout Australia and New Zealand. The economic benefits derived from a single bilateral market are essential for the maintenance and development of the food industry.
- Cerebos is unaware of any pressing issue that requires P1025 to be assessed quickly within any set time frame. The imposition of artificial deadlines might have the effect of delivering sub-optimal reform. AFGC considers the development of a Code that delivers on the promised policy goals is the key issue, and that the timing of the reform is less important provided progress is being made.

## **ii) Implementation Issues**

The documentation associated with P1025 does not appear to have appreciated that industry may face significant costs and regulatory burden even if no reformulation or relabelling is required. Industry (and indeed regulators) have a substantial investment in staff knowledge and documentation that is based on the current Code, and any significant changes in content or structure devalues this investment and requires further investment in retraining and amending documentation for no benefit or return to industry and with dubious practical ability to pass such costs on through the supply chain. This is discussed further in Attachment 1. These costs require evaluation in a Regulation Impact Assessment, and calls on FSANZ to undertake this process. Cerebos support the proposal by AFGC to assist FSANZ in such work, and acknowledges that the quantum and variety of these costs will vary greatly depending upon the degree of change in structure of the Code and the location of provisions within it.


- Australia's export markets have a degree of familiarity with the existing Code structures. Cerebos export a large percentage of its products overseas. It is vital that FSANZ appreciates that unexpected changes in export documentation (even things such as the renumbering of regulatory provisions) can trigger delays and additional costs for Cerebos' exports, as foreign officials need to satisfy themselves that the new arrangements do not reflect any significant change in the status of the product. For this reason, FSANZ needs to make WTO notifications so that Australia's export markets are prepared for any ensuing changes in documentation, or at least our exporters can refer overseas officials to the WTO notification by way of explaining such changes.
- FSANZ needs to indicate how it intends to publish information regarding the amendment history of the proposed Code and its relationship with the Current Code. Amendment history is a vital legal tool for both regulators and legal advice providers, as well as an

- educational and interpretive tool for technical and compliance staff, and some indication of how this would carry forward under the proposed Code would be welcome.

### **Conclusion**

- Cerebos endorses representation made by the Australian Food and Grocery Council (AFGC) to the Food Standards Australia New Zealand on this consultation paper.
- Cerebos supports the policy goals of P1025, but considers that they can be achieved in a structure that more closely aligns with the existing Code and thus minimises the disruption to the key group of Code users.
- Cerebos considers more work needs to be undertaken in relation to particular redrafted or newly introduced provisions to ensure that the goal of no actual impact (in terms of composition and labelling) is achieved.
- Cerebos considers that FSANZ needs to undertake a Regulatory Impact Assessment in relation to P1025 so that the secondary costs of retraining and re-documentation are formally recognised.
- Cerebos considers that the WTO must be notified of the proposed changes to minimise impacts on Australia's exports.

Yours Sincerely,

  
Regulatory Affairs Technologist ANZ  
Cerebos (Australia) Limited

  
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