



Australian Industry Group Submission

FSANZ
Proposal P1025 – Code Review

September 2013

Australian Industry Group response to the Food Standards Australia New Zealand Proposal P1025 – Code Review

Introduction

The Australian Industry Group (Ai Group) Confectionery Sector represents manufacturers of chocolate, sugar and gum confectionery, suppliers of ingredients, machinery, packaging materials and services to the industry, and wholesaler and distributor firms.

Ai Group has approximately 130 confectionery sector members operating in Australia and New Zealand.

The Australasian confectionery industry employs more than 8,700 Australians and New Zealanders.

The Australian confectionery industry's direct market value is in excess of \$2.9 billion, with New Zealand's being \$494 million.

Major confectionery manufacturing plants are principally located in New South Wales, Tasmania and Victoria, including in a number of regional locations (eg Ballarat and Lithgow) and to a lesser extent South Australia, Queensland and New Zealand where SME business are based.

The Ai Group Confectionery Sector welcomes the opportunity to provide the following comments on the Food Standards Australia New Zealand Proposal P1025 – Code Review.

General comments

The Ai Group Confectionery Sector in principle supports FSANZ's proposal to reform the Australia New Zealand Food Standards Code (the Code), however is of the view that the draft variation contains more structural change than necessary.

Ai Group supports the objectives to improve the legal efficacy of the Code, to modernise it, to provide clarification in associated food laws and make it easier to use for all stakeholders, including importantly for uniform enforcement.

We note that the Code review should not change the effect of provisions that impose requirements or obligations that affect formulation and/or label changes; however, given such a comprehensive and complex undertaking, we caution against unintended consequences. We envisage that unintended consequences may arise and may only be identified when the new Code is implemented. Ai Group encourages FSANZ to have a process in place that swiftly responds to the identification of unintended consequences to ensure commerce is not inadvertently inhibited.

Presenting the Code as a single unified instrument, we assume will enable improved search functionality, which will be welcomed by all stakeholders, especially industry.

The location of definitions up front in the Code, in a specific definition section, with reference notes (signposts) throughout is also considered as a positive development that will improve the overall utility in the new Code.

However, the removal of schedules from within standards with relocation at the back of the Code is considered a disadvantage. We believe that the schedules intrinsically support specific sections and their separation makes it more difficult for Code users to understand requirements and adds unnecessary complexity and burden to the operation and navigation.

Whilst we recognise a second round of public comment is scheduled, managing the living nature of the Code adds to the complexity of the review as amendments evolve contributing to the challenge.

There are some opportunities where this review may be able to achieve clarification in areas that currently are ambiguous lack clarity – eg Standard 1.3.1 – Food Additives, Clause 4 sweetener statement (as applied to gum in particular) and Clause 6 on multiple additives performing the same technological function where no maximum permitted level is provided – eg additives with good manufacturing practice (GMP) levels.

Although it is considered that the proposed draft food regulatory measures are unlikely to have a significant effect on international trade; as the amendments are not proposed to significantly change the Code, ie not triggering formulation or label changes; making in FSANZ's view notification to the WTO unnecessary, it is our opinion that due to the complex nature of the Code restructure there will be significant impact on businesses. In particular, as for local businesses, trading partner stakeholders too will need to familiarise themselves with the new operating structure, the flow on implications of education for all stakeholder groups and implementation as companies internal documentation systems are updated. There will be an element of business disruption that cannot be underestimated that adds cost.

Ai Group recommends for this reason that a transition period is adopted, potentially two years. On the one hand industry needs to manage its business through the transition and on the other side FSANZ and other jurisdictions needs to manage the transition process, including ensuring the 'old' and 'new' Code updates are maintained and associated regulation amendments are transitioned.

In addition to these general comments, the Ai Group Confectionery Sector supports the Australian Food and Grocery Council's (AFGC) response to P1025 – Code Review.

Specific comments

Chapter 1

Part 1, Division 2, Section 1.06

Ai Group supports the relocation of definition to a central place at the front of the new Code. All definitions need to be here with appropriate signposting to reference sections throughout the Code.

The minor amendment to the definition of chocolate is supported.

Chapter 1

Part 4, Division 2, Section 1.125

This section allows the addition of intense sweeteners at levels exceeding the maximum permitted level in Schedule s15.04 and clarification to the note to the intense sweetener permissions for chewing gum and bubble gum is recommended.

Chapter 1

Part 4, Division 2, Section 1.126

The rule for calculating food additives performing the same technological function should be clarified in relation to additives permitted at good manufacturing practice (GMP) where no maximum permitted levels (MPLs) are prescribed.

Chapter 1

Part 4, Division 7, Section 1.147

The note to Division 7 incorrectly refers to “cocoa” bush instead of “coca”.

Schedule S12.06

The example nutrition information panel (NIP) for chewing gum containing calcium is only permitted on a ‘sugarfree’ product and the polyols are not listed for illustrative purposes.

Schedule 13.01

Reference to the calculation of dietary fibre references clause 18, presumably is a carry over from the existing Code.

Conclusion

The Ai Group Confectionery Sector supports FSANZ’s Code Review. We support the aim to improve the enforceability of the Code, the need for clarity and usability of the Code for all stakeholders. However, a structure that is more akin to the current format combined with the enhanced features of the draft Code will, in our view, result in an improved outcome that will lead to a reduced level of business disruption. Ai Group looks forward to continuing to participate in this review as it develops.