



Distilled Spirits Industry Council of Australia Inc.

23 September 2015

Food Standards Australia New Zealand
P.O. Box 7186
Canberra BC ACT 2610
AUSTRALIA
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**Submission – Proposal P1031: Allergen Labelling Exemptions for Distilled Alcohol
from Wheat and Whey**

Dear Sir, Dear Madam,

I am writing on behalf of the Distilled Spirits Industry Council of Australia (DSICA). DSICA is the peak industry association representing the interests of distilled spirits manufacturers and importers in Australia and accounts for over 80 per cent of the spirits industry in Australia. DSICA advocates the interests of its members and those of the broader international spirits industry. Our membership comprises:

- Bacardi Lion
- Beam Suntory
- Brown-Forman
- Bundaberg Distilling Co.
- Diageo
- Mast-Jägermeister AG;
- Moët Hennessy
- Remy Cointreau International Pte Ltd
- William Grant & Sons International Ltd

DSICA welcomes the opportunity to provide its views regarding the draft food regulatory measure proposed by the Food Standards Australia and New Zealand (FSANZ) to amend Section 4 of Standard 1.2.3 of the Australia New Zealand Food Standards Code (the Code). In particular, DSICA would like to confirm its **full support to proposal P1031, whereby FSANZ intends to exempt distilled alcohol derived from wheat or whey from mandatory**

“Free The Spirit”

declaration of allergens where available evidence indicates that the production methods used remove or reduce allergenic proteins to levels that are of negligible risk to allergic consumers. DSICA's views on this proposal are in full alignment to the views of our industry counterparts in the United States, New Zealand and other key importing markets.

Accurate standards based on sound scientific evidence

DSICA concurs with the vast majority of the scientific community that non-volatile substances such as proteins and sugars are unlikely to be found in the final distillates, provided that the distillation process is well-run. As a result, distilled alcohol from whey and wheat does not contain detectable levels (i.e. less than 1mg/kg) of allergenic proteins and it is safe for allergic consumers. In addition, we agree with the analytical evidence gathered by FSANZ indicating that:

- a) Distilled alcohol derived from whey presents negligible risk to milk allergic individuals; and
- b) Distilled alcohol derived from wheat presents negligible risk to wheat allergic and coeliac individuals.

We fully support the need for appropriate labelling to inform and protect consumers, but overly restrictive labelling standards that encompass *all* levels of allergens, including negligible ones, may lead to unnecessarily restricted diets, risk-taking behaviour and increased consumer frustration. Excessive labelling statements can induce consumers to ignore the warnings on the basis, for instance, of prior experience consuming the product in question without an adverse reaction.

International Standards

DSICA supports a less onerous and burdensome labelling regime consistent with international practice. We note that distilled alcohol derived from wheat or whey is already exempted from mandatory labelling in the European Union (EU) based on specified production methods. In addition, these products are, or may be, eligible for exemption in the United States (US) and Canada. The US and Canada exemptions are based on proof of absence of allergenic protein

in the final product, or upon scientific demonstration that they do not cause any allergic response.

The proposed changes will thus ensure Australia's labelling regulations are better harmonised with international standards. The most widely recognised global standard for food labelling regulations is enshrined in the Codex Alimentarius.¹ More specifically, Article 3.1 of the Codex Alimentarius - General Standard for the labelling of pre-packaged food (CODEX STAN 1-1985) - states that "*pre-packaged food shall not be described or presented on any label or in any labelling in a manner that is false, misleading or deceptive or is likely to create an erroneous impression regarding its character in any respect.*" Harmonised regulations that are in conformity with the Codex, constitute the best conduit to decrease regulatory uncertainty for businesses that engage in international trade.

The proposal is also consistent with the World Trade Organization's (WTO) Technical Barriers to Trade (TBT) Agreement, which calls on members to align their policies and practices to recognised international standards and to achieve greater harmonisation across borders. Indeed, Art.2.4 of the TBT Agreement states that "*where technical regulations are required and relevant international standards exist or their completion is imminent, Members shall use them, or the relevant parts of them, as a basis for their technical regulations*".

Cost-benefits assessment of the proposed exemptions

Finally, DSICA would like to express its agreement with the cost-benefit and regulatory impact analysis provided by FSANZ (Call for Submissions, page 12). We firmly believe that the proposed allergen labelling exemptions will greatly benefit all interested parties, namely consumers, industry as well as governments:

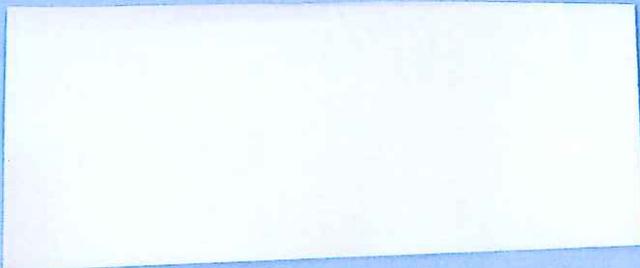
- a) Consumers will benefit from more accurate labelling statements and a broader range of dietary options enhancing consumer choice;

¹ Under WTO law, international standards are overtly defined as those enacted by the Codex Alimentarius Commission. See, for instance, Annex A.3 of the Sanitary and Phytosanitary Agreement. Moreover, in the EC-Sardines case, paragraph 221, the WTO adjudicators acknowledged that the Codex Commission is an "international standardisation body" within the meaning of TBT Annex 1.4.

- b) The industry will benefit from increased competitiveness vis-à-vis directly competitive and substitutable goods manufactured from non-allergenic sources. Manufacturers will also thrive from less regulatory burden on labelling requirements. For example, alignment with international standards and regulations means that companies do not have to produce different labels for different markets; and
- c) Governments will benefit from a reduction in the administrative burden and costs associated with the enforcement of current allergen labelling requirements.

We would like to thank you for the opportunity to convey DSICA's views regarding FSANZ's draft food regulatory measure. Once again, DSICA fully supports FSANZ's proposal to exempt distilled alcohol derived from wheat or whey from mandatory allergen labelling.

Yours sincerely,



Gordon Broderick
Executive Director