

Office of the Chief Executive Office

Productivity Commission
Wurundjeri, Woi-wurrung Country
Level 8, 2MQ, 697 Collins Street, Docklands VIC 3008

RE: Interim report on the National Competition Policy Analysis 2025

Thank you for the opportunity for Food Standards Australia New Zealand (FSANZ) to provide this submission on the Productivity Commission's interim report on the National Competition Policy Analysis 2025.

This submission highlights FSANZ's standards-setting role within the joint Australia New Zealand Food Regulation System, addresses potential misalignment between domestic and international food standards, and clarifies labelling issues raised in the report.

FSANZ'S ROLE

The Joint Australia New Zealand Food Regulation System involves all levels of government across Australia and New Zealand. Within the system, FSANZ is the independent statutory authority responsible for the development and maintenance of food standards in the *Australia New Zealand Food Standards Code* (the Code). While FSANZ sets the standards in the Code, enforcement is the responsibility of state and territory food enforcement agencies, the Imported Food Inspection Scheme within the Department of Agriculture, Fisheries and Forestry at the Australian border, and the Ministry for Primary Industries in New Zealand. Food policy is the responsibility of food ministers.

Besides establishing food standards, FSANZ undertakes several other roles including coordinating food recalls in Australia, undertaking surveillance and monitoring of the safety of the Australian food supply and providing advice on food-related health risks.

Section 18(1) of the *Food Standards Australian New Zealand Act 1991* (the Act) specifies three objectives in priority order for FSANZ in developing or reviewing food regulatory measures and variations of food regulatory measures:

- (a) the protection of public health and safety;
- (b) the provision of adequate information relating to food to enable consumers to make informed choices; and
- (c) the prevention of misleading or deceptive conduct.

Section 18(2) of the Act requires that in developing or reviewing food regulatory measures and variations of food regulatory measures, FSANZ must have regard to the following:

- (a) the need for standards to be based on risk analysis using the best available scientific evidence;
- (b) the promotion of consistency between domestic and international food standards;
- (c) the desirability of an efficient and internationally competitive food industry; and
- (d) the promotion of fair trading in food.

INTERNATIONAL HARMONISATION AND TRADE FACILITATION

The joint Australia New Zealand Food Regulation System is designed to harmonise with international standards wherever appropriate, ensuring that domestic regulations support both public health and trade facilitation. FSANZ's approach reflects a commitment to global best practice, transparency, and scientific rigour, and is consistent with Australia's obligations under the World Trade Organization (WTO).

The Productivity Commission's interim report (Section B.3, pp. 34–38) raises concerns about potential misalignment between domestic and international standards and references proposed alignment with standards produced by Standards Australia, a non-government, not-for-profit voluntary standards development organisation. Standards Australia typically develops standards through consensus among industry, government, and community stakeholders. In contrast, FSANZ standards are developed through statutory processes, including scientific risk assessment, public health considerations, and extensive stakeholder consultation, with resultant decisions by Food Ministers ultimately becoming mandatory. The following points clarify FSANZ's role and the system's alignment with international norms:

Codex Alignment and WTO Notification

FSANZ actively aligns food standards with Codex Alimentarius and other international benchmarks. Where deviations occur, they are based on public health considerations and national policy guidance and are transparently notified to the WTO. FSANZ is recognised internationally for its scientific and regulatory leadership, with its expertise regularly sought to contribute to the Joint FAO/WHO Expert Committee on Food Additives (JECFA) and through its role chairing and leading Codex committees that shape global food standards.

Regarding FSANZ's recent assessment of infant formula, FSANZ carefully considered alignment with Codex, WHO, and major trading partners to support trade and manufacturing efficiencies while maintaining public health protections. Prohibitions relating to certain label claims were deemed to be consistent with international best practice and reflect longstanding policy positions to protect and promote breastfeeding. While some submissions raised concerns regarding these prohibitions, no supporting evidence, including from the Infant Nutrition Council, was provided to demonstrate that they are inconsistent with international standards or pose trade-related issues. The proposed infant formula amendments were notified to WTO Members and only one comment was received - from the US Government - seeking confirmation that all changes would support supply for vulnerable infants and clarification on two minor compositional issues, which was satisfactorily provided. No concerns were raised about broader regulatory impacts on trade. Australian Food Ministers unanimously supported the amendments and since coming into effect on 13 September 2024 (with a 5-year transition arrangement), no approaches have been made to FSANZ to raise concerns regarding unintended trade impacts eventuating. Australian infant formula products continue to be well-regarded in export markets, supported by our reputation for high-quality agricultural practices and strong food safety standards.

Support for Trade and Market Access

The bi-national food regulatory system reduces regulatory fragmentation across Australia and New Zealand, supporting consistent standards that facilitates trade and protects Australia's food exports valued at over \$50 billion annually. FSANZ's standards are recognised internationally for their scientific integrity and public health protections, contributing to

Australia's reputation as a trusted exporter of high-quality food products. Each FSANZ standard goes through at least one round of public consultation, providing an opportunity for stakeholders to raise concerns about misalignment with international standards or potential negative impacts on productivity. To support this vital trade, FSANZ is committed to both leading and aligning with international standards. The joint Australia-New Zealand system further reduces regulatory fragmentation, supports consistent standards, and enhances Australia's reputation as a trusted exporter of high-quality food. For example, FSANZ's annual Maximum Residue Limit harmonisation proposal enables trade and market access in agricultural and horticultural commodities.

Scientific Basis for Standards

All FSANZ standards are developed using risk analysis based on the best available scientific evidence. This ensures standards are not only protective of public health but also defensible in international forums. The system's credibility enhances Australia's standing in trade negotiations and regulatory cooperation. FSANZ experts engage in international forums developing the latest risk assessment tools and practices to support a globally consistent approach to setting food standards.

Efficient and Competitive Food Industry

FSANZ's work supports an efficient and internationally competitive food industry. By harmonising with international standards and streamlining regulatory processes, FSANZ enables manufacturers to operate across jurisdictions with minimal duplication or compliance burden. While FSANZ aims to align with international standards where appropriate, there are instances where this may not be the case - such as when domestic consumption patterns result in a different risk profile, or when ministerial guidelines reflect national priorities that diverge from international standards.

Fair Trading and Consumer Protection

FSANZ's standards promote fair trading in food by ensuring clarity, consistency, and transparency in labelling and product composition. This benefits both consumers and industry and aligns with international expectations for food regulation. The provision of tools to support industry to meet the requirements of labelling standards assists both trade and consumer protection. For example, FSANZ's amendments to the infant formula standard in the Code were informed by extensive consumer research, literature reviews, and label surveys. The changes enhance transparency and enable caregivers to make informed choices. No critical product information has been removed or restricted. The best available evidence confirmed these standards enhanced consumer understanding of the information available, improving consumer confidence in their choice of products. FSANZ recognises the importance of supporting an innovative industry and the ability to provide consumers with information about these innovations. To enable this, FSANZ's statutory processes allow for additional labelling permissions to be applied for.

Regulatory Maturity and Global Recognition

The Australia New Zealand Food Regulation System is one of the few treaty-based food regulatory systems in the world. Its maturity and effectiveness have been recognised internationally, and it serves as a model for regulatory cooperation and harmonisation.

Partnerships with other countries (e.g. work sharing arrangements with Health Canada on genetically modified food safety assessments) have also been successful in reducing time and cost for approvals while increasing international harmonisation and trade opportunities.

CONCLUSION

In conclusion, FSANZ appreciates the opportunity to contribute to the Productivity Commission's interim report on the National Competition Policy Analysis 2025. The joint Australia New Zealand Food Regulation System plays a vital role in protecting public health, supporting informed consumer choice, and enabling a competitive food industry. FSANZ remains committed to international harmonisation where appropriate, while ensuring that domestic standards reflect national priorities and risk profiles. We thank the Commission for the opportunity to provide input and welcome continued engagement as the analysis progresses.

Yours sincerely

Dr Sandra Cuthbert
Chief Executive Officer
5 September 2025