11 August 2003

Mr. Tony Hinton,
Commissioner
Productivity Commission
PO Box 80 Belconnen ACT 2616

Dear Mr. Hinton,

Re: Draft Research Report - "Evaluation of the Mutual Recognition Agreement

First of all let me thank the Commission for the opportunity to participate in the round table discussions of Thursday August 7. They were very helpful in clarifying a number of matters arising from the above report.

The Association would like to submit the following comments for consideration:

Food Type Dietary Supplements

In Chapter 4 in dealing with harmonisation within Trans Tasman jurisdictions the Commission correctly identifies the anomaly created by the Food Type Dietary Supplements (FTDS) produced or imported into New Zealand under New Zealand's "Dietary Supplements Regulations".

We are concerned however, that the Commission appears to dismiss this issue, based on the comments by Food Standards Australia New Zealand (FSANZ). We believe that this matter is not only deserving of wider scrutiny by the Commission - it should have also resulted in a preliminary finding that would hopefully evolve in a recommendation in the final report.

We specifically take issue with the FSANZ quote that innovative products produced under the New Zealand Standard and imported into Australia may *"potentially expose Australia to new public health and safety risks. "* (sub.91, p.6).

These regulations have been in place, to our knowledge, in New Zealand for the past twenty years. There is absolutely no evidence that New Zealanders have been exposed to any public health and safety risks as a result of their operation. Nor is there any evidence that New Zealanders' health outcomes are inferior to that of Australians as a result of the operation of that Standard or of the products produced under that Standard.

One would have to assume that if Australian State and Federal health authorities have permitted the importation and sale of these goods in general retail outlets, it is precisely because they are safe and there is a public demand for them.

Australasian Soft Drink Association Ltd ABN 12 115 440 166
Level 7, 110 Bathurst Street Sydney *NSW 2000* Phone: *+61 2 9283 9666* Fax: *+61 2 9283 9655*
asda@softdrink.org.au www.softdrink.org.au

In terms of the beverages sector, these products usually consist of non-alcoholic beverages fortified with vitamins and minerals. FSANZ began a review of the New Zealand "Dietary Supplements" regulations in June 2001. To this day, this review (FSANZ's Proposal P235) has not gone past the preliminary assessment stage of FSANZ's process. It is interesting that in so far as it related to FTDS, at no stage did FSANZ suggest that there was any concern with public health outcomes resulting from the consumption of these products.

The Food Standards Ministerial Council, for its part, recently published a Draft Policy Paper on Food Type Dietary Supplements. Again whilst the paper canvassed a number of policy options, there was not any implication that the products constituted a health or safety concern.

We strongly urge the Commission to recommend in its final report:

1. That Australian Food Regulatory Authorities recognise that there is no reason for FTDS produced under the New Zealand Standard not to be imported into Australia.
2. That the success of these products in the market place is a clear indication that there exists a consumer demand for FTDS.
3. That, until the Australia New Zealand food regulatory system arrives at a common Standard covering these products in both countries, that Australian food and beverage manufacturers be permitted to produce FTDS in accordance to the New Zealand Standard.

Beverage Container Act 1975 (South Australia)

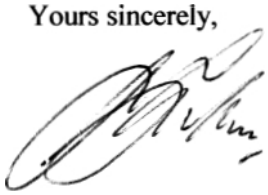
The Commission has correctly identified that the permanent exemption granted to this legislation from the MRA is an anomaly that has outlived both its economic and environmental usefulness.

We strongly support the Commission's finding that the South Australian Government should review this legislation with the aim of its replacement with schemes to promote recycling and litter management as adopted in all the other jurisdictions that are party to both the MRA and TTMRA. We urge that it be a recommendation in the Commission's final report to the Government

Conclusions

The Association commends the work of the Commission in this draft report and looks forward to the recommendations of its final report.

Yours sincerely,



Tony Gentile
Chief Executive