



323-351 CANTERBURY ROAD  
RINGWOOD, VICTORIA, 3134

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Mutual Recognition Review  
Productivity Commission  
LB2 Collins Street East  
Melbourne, VIC., 8003

To whom it may concern

Review of Mutual Recognition Schemes

Cadbury Schweppes Pty Ltd manufactures a range of Confectionery, Beverage, and Food products across Australia and New Zealand and we welcome this review of Mutual Recognition Schemes.

The Trans Tasman Mutual Recognition Arrangement (TTMRA) is the only Mutual Recognition Scheme that has any direct impact on our local operations at the moment. However, as we continue to expand with global trade any arrangements we create with other countries within the Asia Pacific region will have an impact on us.

Cadbury Schweppes Pty Ltd in principle supports the Trans Tasman Mutual Recognition Arrangement but there are a number of aspects of the arrangement that need to be reviewed and amended if a level playing field is to be created. It is our submission that industry in New Zealand enjoys a number of advantages over its Australian counterparts, based on products being legally manufactured in one country being legal in the other country. Harmonising legislation between the two countries is critical for ensuring consistency in trade and consistency in interpretation and enforcement of legislation.

#### Food Standards Code issues

The Commentary to the Food Standards Code states that the Code is a “co-operative arrangement between Australia, New Zealand and the Australian States and mainland Territories to develop and implement uniform food standards”. With a number of key aspects of the Code not implemented by New Zealand there appears to be a lack of co-ordination or cooperation and we are concerned that New Zealand has been able to opt out of implementing a number of aspects of the Code.

The Country of Origin labelling (Standard 1.2.11) is the most concerning issue. Even though Cadbury Schweppes believes that CoO labelling was an issue that should be covered under Fair Trading legislation, and not the Food Standards Code, we do not understand why New Zealand would have had a major objection to implementing it via a form of legislation. All Cadbury Schweppes products manufactured in New Zealand are labelled with a Country of Origin declaration, in accordance with Standard 1.2.11 of the Code.

Maximum Residue Limit's, as per Standard 1.4.2, are not recognised by New Zealand. I am not sure what regulations or MRL's New Zealand does actually follow but does this mean that a food that is legal in New Zealand can be exported to Australia even though the MRL for a specific

substance has been exceeded? If New Zealand has a defined list of MRL's then this should be included in the code as for New Zealand only. At least in this way there is a clear understanding as to what the MRL's are in both countries.

Other aspects of the Food Standards Code that have not been adopted by New Zealand include:

- Food Safety Requirements (Section 3)
- Wine Production Requirements (Section 4)
- Primary Production & Processing Standards (Section 4)

Enforcement of the Food Standards Code is hard enough without there being differences between Australia and New Zealand in terms of adoption of the Code. A major concern for manufacturers is that the individual jurisdictions (States and Territories, as well as the NZ Government) interpret and enforce the Code differently so having aspects of the Code differ from Australia to New Zealand only adds an unnecessary complexity.

We appreciate that New Zealand is a sovereign country in its own right but if it chooses to enter a "co-operative arrangement" for a common Food Standards Code across Australia and New Zealand then adopting the Code in its entirety should be mandatory.

#### New Zealand Dietary Supplements regulations

The New Zealand Dietary Supplements Regulations has provided New Zealand manufacturers with a very distinct advantage for many years. Dietary Supplements can be manufactured in New Zealand and sold in Australia yet these products cannot be manufactured in Australia.

We have also seen imported products enter Australia via New Zealand, having been cleared for sale in New Zealand initially.

All non food items approved under the Dietary Supplements Regulations were to be carried over into the new joint Therapeutic Goods venture (Therapeutic Goods Administration and Med Safe) but as this joint venture has stalled there is no clear understanding of the way forward.

New Zealand appeared to be willing to discuss how all food type products, currently manufactured in accordance with the Dietary Supplements Regulations, could be incorporated into the Food Standards Code. However, there has been no public response to the discussion paper initiated by the NZ Food safety Authority in 2007. Note that the Australia New Zealand Food Regulation Ministerial Council also issued a discussion paper on Food Type Dietary Supplements in 2003 so this issue has been in 'discussion' for some 5 years now with no visible sign of resolution.

#### Average Quantity System (AQS)

This is another anomaly between the two countries that significantly advantages New Zealand manufactured products. New Zealand implemented AQS some 6 years ago and has been 'debated' in Australia for over 10 years. In 2007 we saw the Regulatory Impact Statement for public comment and consultation here in Australia but previous to this we have seen a number of discussion papers.

Australia, as a signatory to the OIML (International Organisation of Legal Metrology), is obliged to adopt the recommendations and it is now over 10 years ago that the recommendation to adopt AQS was made. As the States and Territories of Australia maintain their own Weights & Measures legislation there has been little chance of agreement. However, the Federal Government, under the

constitution, has the ability to overrule the States and Territories but for some reason chose not to do so.

It is very pleasing to note that the Council of Australian Governments has now agreed that national legislation will be in place by mid 2010 and it is hoped that legislation for AQS will be in place by that time also. Unfortunately this will be some 14 years after it was originally recommended.

The AQS system being proposed for Australia is almost identical to that already implemented in New Zealand but we would question why it is not the same system. If the AQS model in use in New Zealand works well in New Zealand then why is there a need for changes before it is adopted here? Of some concern is a recent comment from the National Measurement Institute (NMI), who have been commissioned by COAG to review the national measurement legislation, that there are concerns with how New Zealand has defined a “lot” and that potentially this is the reason as to why we have been “slow” in taking up the same AQS model as New Zealand.

AQS has been adopted by a number of major countries, a number of which are significant trading partners with Australia, so it is unacceptable that we have seen a 10 year delay in the implementation of this system. It is also of great concern that we appear unwilling to adopt the same scheme currently in place in New Zealand.

Cadbury Schweppes appreciates the opportunity to provide a submission into the Review of Mutual Recognition Schemes. If there are any aspects of this submission which require further clarification please do not hesitate to contact the undersigned.

Please note that the issues raised in this submission have previously been raised in a number of other forums including the Bethwaite Review and the most recent Victorian Competition & Efficiency Commission Review into Food Regulation in Victoria

Neil Smith  
Scientific Services Manager