



323-351 CANTERBURY ROAD  
PO BOX 200  
RINGWOOD, VICTORIA, 3134  
TELEPHONE: 61 3 9210 1300

8<sup>th</sup> December 2008

Review of Mutual Recognition Schemes study  
Productivity Commission  
Locked Bag 2, Collins St. East,  
Melbourne, VIC 8003 Australia

To whom it may concern:

Cadbury Schweppes Pty Ltd has previously provided comment on the TTMRA, specifically on issues that relate to the Australia and New Zealand Food Standards Code, Weights & Measures regulations, and the administration of Therapeutic goods.

The following issues are those which affect us as a manufacturer and distributor of food products across Australia and New Zealand and while we have seen some progress in the past year our concern is that the overall time taken to resolve issues is far greater than it should be.

While we acknowledge that both Australia and New Zealand are individual sovereign identities we would hope that the TTMRA should serve as the mechanism to create common regulations and standards and not just serve to mutually recognise each others regulations.

### **Weights & Measures regulations**

There are 2 major issues relating to Weights & Measures regulations

Currently New Zealand operates AQS (Average Quantity System) for weights and measures, and has done so for over 6 years. Australia, on the other hand has been discussing the introduction of AQS for over 10 years now, despite an undertaking as a signatory to the OIML, that we would adopt recommendations such as AQS.

As a result of this manufacturers in New Zealand have had a significant advantage over their Australian counterparts by being able to pack products to AQS rules and export those products to Australia. While it is very likely that these products would not meet the Weights & Measures regulations in Australia they are legal because of the TTMRA.

As we do have operations in both countries we are very aware of the potential costs savings and implications of operating to AQS.

Weights & Measures regulations in Australia are owned by the individual States and Territories and while the Regulations are reasonably similar there are often significant differences in interpretation and enforcement of the regulations by each State and Territory.

To a major extent these differences should be overcome by mid 2010 as a National Weights & Measures scheme will be implemented and this will include the introduction of AQS.

However, there is still no guarantee that the AQS model adopted by Australia will be the same as that adopted by New Zealand. We would hope that common sense would prevail and that the National body looking to the national Weights & Measures legislation in Australia would look to adopt the same AQS model as already implemented in New Zealand as well as adopting compatible Weights & Measures Regulations.

Note that AQS is also in place with a number of our major trading partners.

### **Dietary Supplements**

New Zealand currently has a Dietary Supplements Regulations for items that sit somewhere between a Food product and a Medicated product.

New Zealand manufacturers are able to manufacture Dietary Supplements and export them to Australia even though these products cannot be manufactured in Australia.

It is also possible to import these products into New Zealand (from elsewhere in the world) and once that have been cleared by New Zealand Customs they can be transhipped to Australia. We are aware of this occurring with a Beverage product manufactured in the USA.

We should note that there have been several attempts to abolish the New Zealand Dietary Supplements Regulations and to absorb these items into either the Food Standards Code (as a Food) or into MedSafe (as a Therapeutic Good). We acknowledge that the New Zealand Government has been proactive in attempts to abolish the Dietary Supplements Regulations, offering suggestions as to how Food type products can be absorbed into the Food Standards Code over a transition period.

We are hopeful that over the next 2-3 years the New Zealand Dietary Supplements Regulations will be abolished but note that this issue has already been under discussion for a number of years.

### **Other Food Standards Issues**

There are other areas of the Food Standards Code which New Zealand has opted not to take up. However, as far as Cadbury is aware there has not been a problem as far as the TTMRA is concerned. However, Cadbury does not have a significant involvement in those parts of the Code.

These aspects of the Code include:

- New Zealand has not adopted Standard 1.4.2 Maximum Residue Limits
- New Zealand has not adopted Standard 1.6.2 Processing Requirements, dealing with Milk, Meat and Egg processing
- New Zealand has not adopted Standard 3.1.1 Interpretation and Application relating to Food Safety Standards, or any of the Standards within section 3.2 relating to Food Safety Programs
- New Zealand has not adopted Standard 4.5.1 Wine Production Standards
- New Zealand has not adopted any of the Standards within section 4.2 relating to Primary Production and Processing Standards for Milk, Meat, Poultry, Dairy and Specific Cheeses.

The intent of the Food Standards Code is to have a common shared set of Food Standards and currently this does not exist while either country chooses which parts of the Code they want to participate in.

### **Therapeutic Goods**

It is very unfortunate that the joint scheme for Therapeutic Goods across Australia and New Zealand has not eventuated.

We would support the resumption of discussions on this issue with the aim of including Therapeutic Goods under the TTMRA.

### **Common Labels / Country of Origin declaration**

Cadbury manufactures similar products in Australia and New Zealand and interchanges a significant number of products between the 2 countries as part of ongoing efficiency measures. Currently we have a separate label for the same product manufactured in both countries because there is a requirement to include a Country of Origin declaration, according to Standard 1.2.11 of the joint Food Standards Code.

Note that Country of Origin labelling is not mandatory on New Zealand manufactured products, a decision made by the New Zealand Government during the introduction of Country of Origin labelling. However, all Cadbury products manufactured in New Zealand do carry a Country of Origin declaration.

Our recommendation would be to permit a common label for products manufactured in either country to facilitate greater efficiency. Note that products manufactured in the EU member countries are permitted to carry a "Made in the EU" declaration, a statement that is currently not permitted on products imported into Australia or New Zealand as the Food Standards Code specifically requires a **Country** of Origin declaration to be made and "Made in the EU" does not specify an actual country.

All other mandatory labelling requirements are the same so a declaration such as "Made in Australia and/or New Zealand" would permit a single label to be possible for the same product manufactured in both countries.

In the case of Cadbury products the company name and Consumer contact details for both countries are already included on the label. Product traceability should not be an issue.

We would not see this applying to other Mutual Recognition schemes as our mandatory labelling requirements are generally not compatible with other countries

We trust that our comments on the above issues will assist the Commission and we would welcome any opportunity to discuss them.

Yours faithfully

Neil Smith  
Regulatory Affairs Manager