

AUSTRALIAN
FOOD AND GROCERY
COUNCIL

SUBMISSION

SUBMISSION TO

The Productivity Commission

IN RESPONSE TO

Performance Benchmarking of Australian Business
Regulation

September 2006

PREFACE

The Australian Food and Grocery Council is the peak national organisation representing Australia's packaged food, drink and grocery products industry.

The membership of the AFGC comprises more than 150 companies, subsidiaries and associates which constitutes in the order of 80 per cent of the gross dollar value of the highly processed food, beverage and grocery products sectors. (A list of members is included as Appendix A.) The AFGC represents the nation's largest manufacturing sector. By any measure Australia's food, drink and grocery products industry is a substantial contributor to the economic and social welfare of all Australians. Effectively, the products of AFGC's member companies reach every Australian household.

The industry has an annual turnover in excess of \$68 billion and employs 200 000 people – almost one in five of the nation's manufacturing workforce. Of all Australians working in the industry, half are based in rural and regional Australia, and the processed food sector sources more than 90 per cent of its ingredients from Australian agriculture.

The AFGC's agenda for business growth centres on public and industry policy for a socioeconomic environment conducive to international competitiveness, investment, innovation, employment growth and profitability.

The AFGC's mandate in representing member companies is to ensure a cohesive and credible voice for the industry, to advance policies and manage issues relevant to the industry and to promote the industry and the virtues of its products, enabling member companies to grow their businesses.

The Council advocates business matters, public policy and consumer-related issues on behalf of a dynamic and rapidly changing industry operating in an increasing globalised economy. As global economic and trade developments continue to test the competitiveness of Australian industry, transnational businesses are under increasing pressure to justify Australia as a strategic location for corporate production, irrespective of whether they are Australian or foreign owned. In an increasingly globalised economy, the ability of companies to internationalise their operations is as significant as their ability to trade globally.

Increased trade, rationalisation and consolidation of businesses, increased concentration of ownership among both manufacturers and retailers, intensified competition and dynamic, increasingly complex and demanding consumers are features of the industry across the globe. Moreover, the growing global middle class of consumers is more sophisticated and discerning, driving innovation and differentiation of products and services.

The AFGC is working with governments in taking a proactive, even tactical, approach to public policy to enable businesses to tackle the threats and grasp the dual opportunities of globalisation and changing consumer demands.

GENERAL COMMENTS

The Australian Food and Grocery Council (AFGC) welcomes this opportunity to make a submission to The Productivity Commission on the Performance Benchmarking of Australian Business Regulation.

The AFGC notes that the objective of Performance Benchmarking of Australian Business Regulation is referenced by COAG as follows:

COAG's overarching objective in seeking to benchmark regulatory performance across jurisdictions is to identify 'unnecessary' burdens, given policy objectives.

- *identifying best practice for similar regulation across jurisdictions to assist in the design of improved regulatory arrangements; and*
- *monitoring the burden over time to assess whether it is increasing or decreasing, either generally or in specific areas.*

In responding, the AFGC considers that benchmarking of Food Regulation and Governance would be a good example to illustrate the manner in which good intentions for an outcomes based system produced a poor outcome in practice (Attachment A).

RESPONSE TO QUESTIONS

The AFGC offers the following responses to questions raised by the Productivity Commission's discussion paper.

1. How wide in coverage should the benchmarking be?

A focussed rather than a diffuse effort should be considered.

2. Which regulations or regulatory areas should be benchmarked?

Food Regulation which relies on adoption by States and Territories of a Model Food Act developed by the Commonwealth, for its enforcement would be a suitable benchmarking opportunity.

The degree to which the Food Regulatory Agency (FSANZ) processes amendments to the Food Standards Code in a timely manner would be an internal benchmark that could be benchmarked against equivalent Agencies in Canada or South Africa.

3. Which approach would be most cost effective?

Because many businesses operate across jurisdiction boundaries, uniform uptake and application of food regulation is essential to provide certainty in the regulatory environment. To be effective, this requires States and Territories to have adopted the Model Food Acts unchanged. An examination whether this has occurred would be a first step in benchmarking the uniform application of food law across Australia.

4. How should regulatory burden be measured?

Consistency in interpretation and enforcement of food law provides certainty to food businesses in developing innovations to meet consumer expectations. A survey of food businesses experience with regulation on a State by State basis would provide guidance on best practice.

5. What criteria should be used in selecting indicators?

The indicators should be reproducible, collectible without putting too much burden on the industry, representative of a broad sector of industry and reviewed periodically for continued relevance.

6. What institutional arrangements would enhance the benchmarking?

An agreement at COAG to receive a report on benchmarking and to review the regulatory burden at least every 5 years.

ATTACHMENT A

FOOD REGULATORY FRAMEWORK – A WORK IN PROGRESS?

Although the original purpose of the Blair Review in 1998 was to simplify food regulation in Australia and New Zealand, the operation of the new system has accumulated excessive red tape and poor delivery in commercial time frames, disadvantaging industry without generating the benefits consumers and government(s) deserved from the reforms.

More and more, consumers are demanding benefits from the foods they purchase beyond that of simple nutrition. The health conscious consumer wishes to take control of their health and expects to take on some “do it yourself doctoring” for diet related chronic disease.

Health benefits of foods are a key driver for industry innovation and are a centrepiece of two government initiatives under the \$137m National Food Industry Strategy¹; the Food Innovation Grants (FIG) Scheme and the National Centre for Excellence in Functional Foods².

Benefits do not just accrue to consumers and industry from this form of innovation. The striving for “better for you” foods has an indirect impact on government(s) health care dollar by improving the health of the nation and contributing to reduced health care costs.

The Australian Government(s) Better Health Initiative announced at COAG 10 February 2006 recognised the imperative to move more to prevention and early intervention rather than treatment.

It is unfortunate that the food regulatory system works against effective innovation in responding to this initiative (see graph below).

The weaknesses of the existing system are in governance and regulation:

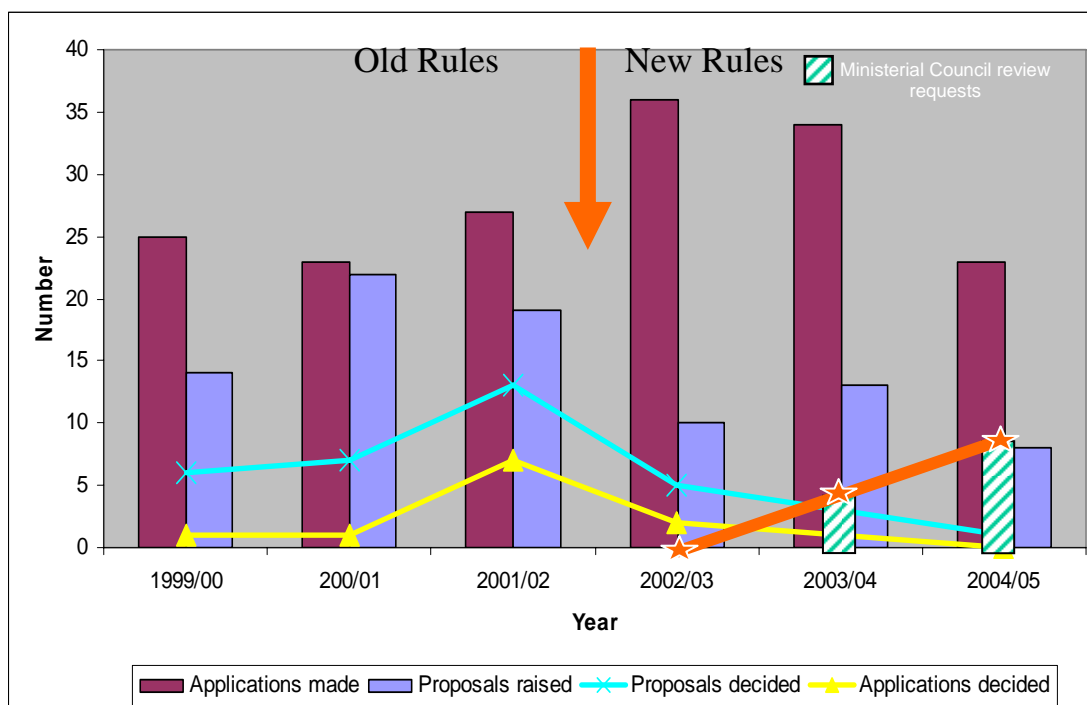
- the timeframe for decision making (see boxed examples) and the cumbersome legislative process for developing or amending a standard,
- the delays occurring as a result of FSANZ waiting for “policy guidance” from the Food Regulation Ministerial Council,
- calls by the Food Regulation Ministerial Council for “review” when certain jurisdictions on Council have not used the opportunity to put in submissions during the FSANZ standard development process.

The Banks Productivity Commission Red Tape Review highlighted the issues for attention, calling for a reconsideration of the Australian Government role in the food regulatory system, including aspects of enforcement, which are currently a States and Territories responsibility. The Commonwealth government’s response was to endorse the recommendations and initiate a review to report to the next COAG meeting.

¹ www.nfis.com.au

² www.nceff.com.au

Efficiency of FSANZ operations pre and post changes to governance structure¹



¹ Data compiled from FSANZ Annual reports

1.1.1 Examples of regulatory delay

A good example is the proposal by Arnott's (now Campbell/Arnott's) and Nutrinova to allow fruit and vegetable juices and drinks, soups and savoury biscuits to be fortified with calcium.

Their application showed that increasing calcium intake through these foods had the potential for beneficial health outcomes.

The initial proposal was accepted by FSANZ in December 2001. The proposal took almost two years to pass each stage of FSANZ assessment and public consultation and was submitted to the Ministerial Council in September 2003. The Ministerial Council returned the proposal to FSANZ for re-assessment, citing numerous areas for review, many of which had been already covered and reviewed thoroughly in the first stages of assessment. FSANZ reviewed and returned the recommendation to the Ministerial Council in March 2005 and it was again returned (by a majority) to FSANZ in May that year. FSANZ once again reviewed and returned their recommendation for approval to Ministerial Council and the application was finally gazetted in November 2005.

It took four years for this proposal to become part of the food standards code: an unacceptable delay that cost the industry market access. These delays are occurring more frequently as the Ministerial Council requests additional reviews from FSANZ.

In 2004-05, 25% of FSANZ approved applications for amendments to the code were rejected by the Ministerial Council, up from 9% in 2002-03. Over this period the number of matters presented to the Council has remained relatively steady. So far in each case of review, FSANZ has reaffirmed its position on the application.

Other examples:

Application A560 Phytosterols in fruit juice and fruit juice drink - Initial assessment report August 2005 – No further progress **1 Year +**

Application A470 Addition of vitamins and minerals to formulated beverages – Initial assessment report January 2003, Draft assessment report May 2005, Final assessment report December 2005. Ministerial review requested February 2006 **3 years+**

Applications A433, 434, 508 Phytosterol addition to foods - Initial assessment report March 2003, Draft assessment report May 2004, and Final assessment report October 2004. Ministerial review requested December 2004, First review report August 2005 reaffirming original decision. Second Ministerial review requested September 2005

3.5 years +

APPENDIX A: AFGC MEMBERS AS AT 23 AUGUST 2006

AAB Holdings Pty Ltd	Kellogg (Australia) Pty Ltd	The Smith's Snackfood Company
Arnott's Biscuits Ltd	Day Dawn Pty Ltd	Uncle Tobys Pty Ltd
Snack Foods Ltd	Kimberly-Clark Australia Pty Ltd	Unilever Australasia
The Kettle Chip Company Pty Ltd	Kerry Ingredients Australia Pty Ltd	Waters Trading Pty Ltd
Asia-Pacific Blending Corporation Pty Ltd	Kraft Foods Asia Pacific	Wyeth Australia Pty Ltd
Australia Meat Holdings Pty Ltd	Lion Nathan Limited	Yakult Australia Pty Ltd
Australian Pacific Paper Products	Madura Tea Estates	
Barilla Australia Pty Ltd	Manassen Foods Australia Pty Ltd	
Beak & Johnston Pty Ltd	Manildra Harwood Sugars	
BOC Gases Australia Ltd	MasterFoods Australia New Zealand	
Bronte Industries Pty Ltd	Zealand	
Bulla Dairy Foods	Food	
Bundaberg Brewed Drinks Pty Ltd	Petcare	
Bundaberg Sugar Ltd	Snackfood	
Cadbury Schweppes Asia Pacific	McCain Foods (Aust) Pty Ltd	
Campbell's Soup Australia	McCormick Foods Australia Pty Ltd	
Cantarella Bros Pty Ltd	Merino Pty Ltd	
Cerebos (Australia) Ltd	Merisant Manufacturing Australia Pty Ltd	
Christie Tea Pty Ltd	National Foods Ltd	
Clorox Australia Pty Ltd	Nerada Tea Pty Ltd	
Coca-Cola Amatil (Aust) Ltd	Nestlé Australia Ltd	
SPC Ardmona Operations Ltd	Nestlé Foods & Beverages	
Colgate-Palmolive Pty Ltd	Nestlé Confectionery	
Coopers Brewery Ltd	Nestlé Ice Cream	
Dairy Farmers Group	Nestlé Chilled Dairy	
Danisco Australia Pty Ltd	Nestlé Nutrition	
Devro Pty Ltd	Foodservice & Industrial Division	
DSM Food Specialties Australia Pty Ltd	Novartis Consumer Health Australasia Pty Ltd	
DSM Nutritional Products	Nutricia Australia Pty Ltd	
Fibrisol Services Australia Pty Ltd	Nutrinova (Australasia) Pty Ltd	
Firmenich Ltd	Ocean Spray International, Inc	
Fonterra Brands (Australia) Pty Ltd	Parmalat Australia Ltd	
Foster's Group Limited	Patties Foods Pty Ltd	
Frucor Beverages (Australia)	Peanut Company of Australia Ltd	
General Mills Australia Pty Ltd	Pfizer Consumer Healthcare	
George Weston Foods Ltd	Prepared Foods Australia	
AB Food and Beverages	Procter & Gamble Australia Pty Ltd	
Australia	PZ Cussons Australia Pty Ltd	
AB Mauri	Quality Bakers Australia Pty Ltd	
Cereform/Serrol	Quality Ingredients Ltd	
GWF Baking Division	Prima Herbs and Spices	
GWF Meat & Dairy Division	Reckitt Benckiser (Australia) Pty Ltd	
George Weston Technologies	Ridley Corporation Ltd	
Jasol	Cheetham Salt Limited	
Weston Cereal Industries	Sanitarium Health Food Company	
GlaxoSmithKline Consumer Healthcare	Longa Life Vegetarian Products Pty Ltd	
Golden Circle Ltd	Sara Lee Australia	
Goodman Fielder Limited	Sara Lee Foodservice	
Meadow Lea Australia	Sara Lee Food and Beverage	
Green's Foods Ltd	SCA Hygiene Australasia	
H J Heinz Company Australia Ltd	Schwarzkopf and Henkel	
Hans Continental Smallgoods Pty Ltd	Sensient Technologies	
Harvest FreshCuts Pty Ltd	Simplot Australia Pty Ltd	
Heimann Foodmaker Group	Specialty Cereals Pty Ltd	
Hoyt Food Manufacturing Industries Pty Ltd	Spicemasters of Australia Pty Ltd	
J Boag and Son Brewing Ltd	Stuart Alexander & Co Pty Limited	
Johnson & Johnson Pacific Pty Ltd	Sugar Australia Pty Ltd	
	SunRice	
	Symrise Pty Ltd	
	Tetley Australia Pty Ltd	
		Associate members
		Accenture
		ACI Operations Pty Ltd
		Amtcor Fibre Packaging
		CAS
		CHEP Asia-Pacific
		CoreProcess (Australia) Pty Ltd
		Dairy Australia
		Exel (Australia) Logistics Pty Ltd
		Focus Information Logistics Pty Ltd
		Food Liaison Pty Ltd
		Foodbank Australia Limited
		IBM Business Consulting Services
		innovations & solutions
		KPMG
		Legal Finesse
		Linfox Australia Pty Ltd
		Meat and Livestock Australia Ltd
		Minter Ellison Lawyers
		Monsanto Australia Ltd
		OTS Search
		PricewaterhouseCoopers
		Promax Applications Group Pty Ltd
		SAP Australia Pty Limited
		Sue Akeroyd & Associates
		Supply Chain Consulting Pty Ltd
		Swire Cold Storage
		Swisslog Australia Pty Limited
		Touchstar Pacific Pty Ltd
		Touchstone Consulting Australia Pty Ltd
		Wiley & Co Pty Ltd

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