

Australian Food and Grocery Council SUBMISSION

25 NOVEMBER 2009

TO:
PRODUCTIVITY COMMISSION

IN RESPONSE TO:
BUSINESS REGULATION BENCHMARKING STAGE 2:
FOOD SAFETY



PREFACE

The Australian Food and Grocery Council (AFGC) is the leading national organisation representing Australia's food, drink and grocery manufacturing industry.

The membership of 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 processed food, beverage and grocery products sectors. (A list of members is included as Appendix A.) AFGC represents the nation's largest manufacturing sector. By any measure our members are substantial contributors to the economic and social welfare of all Australians. Effectively, the products of AFGC's member companies reach every Australian household.

The industry has annual turnover of \$100 billion and represents 28 per cent of total manufacturing turnover. It is comparable in size to the Australian mining sector, and is more than four times that of the automotive sector. The industry employs more than 315 000 people, half of whom are based in rural and regional Australia. The food manufacturing sector sources more than 90 per cent of its ingredients from Australian agriculture.

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.

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 enabling member companies to grow their businesses in a socially responsible manner.

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 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.

AFGC is working with governments in taking a proactive 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 the opportunity to make a submission to the Productivity Commission in response to the Draft Research Report: *Performance Benchmarking of Australian and New Zealand Business Regulation: Food Safety* (the Draft Report”).

AFGC supports the report and considers that overall Commission has recognised the fragmented and complex nature of Australia’s food policy and regulatory system. The Draft Report demonstrates the complexity for companies operating nationally, and bi- nationally, in dealing with detailed and varying demands of 10 governments and regulatory requirements of around 20 departments.

Development of food policy and regulation is hampered by jurisdictions having different expectations and priorities and institutional arrangements and a lack of national uniformity in food regulations, and this is further exacerbated at local levels. The report provides insights into the difficulties and significant impacts on industry in dealing with the various demands of different local governments, ranging from substantial differences in fees and charges to the differences in inspections, provision of food handler training and the lack of resources provided to influencing a culture of compliance. For example, in April 2008 Kogarah Council in Sydney's south attempted to take unilateral action to ban cafes, restaurants and take-away outlets from using fats and oils containing trans- fats¹.

AFGC supports the inevitable conclusion of the Draft Report that food businesses in Australia operate against a backdrop of inconsistency and added administrative costs, and that the food regulatory system imposes opportunity costs on the food industry from delays in decisions to launch new products due to uncertainty regarding the regulatory response.

1. Lack of demonstrably outcome measures of food safety

AFGC supports the conclusion of the Draft Report that it is difficult to use the outcome data provided to draw conclusions of the performance of food safety regulations. While the justification of the Australia New Zealand Food Regulation Ministerial Council for introducing mandatory food safety standards was the need to reduce the incidence of food-borne illness and food poisoning outbreaks in the community, there is little evidence that this has been achieved.

In the period from 2001 to 2008 the Australian data shows that the incidence of Campylobacteriosis, Salmonellosis and, Shigellosis appear to be largely static, few food poisoning outbreaks occur as a result of commercial food manufacturers, and incidence of food recalls appears to have spiked in 2003 and remains relatively stable at around 50 per year.

One of the difficulties in assessing the food recall data is that there are relatively few events. A small change in the number of recalls can significantly alter the percentage of a category of recalls. For example, in 2007 bacterial contamination accounted for 38% of recalls, a jump up from 28% of recalls in 2006. Yet the actual number of recalls was 19 in 2007 versus 16 in 2006, a difference of 3.

In addition, the data does not discriminate between recalls of imported food and recalls of Australian manufactured foods. If the objective of the Draft Report is to consider the impact of the food safety regulations on Australian manufacturers, then it should exclude recalls due to imported foods.

While noting the limitations of the data, the question as to whether the cost borne by industry and enforcement agencies has resulted in a demonstrable benefit to the community needs to be considered. If there are questions around the validity and accuracy of the data, consideration must be

1 <http://www.dailytelegraph.com.au/news/nsw-act/council-cooks-up-trans-fat-ban/story-e6freuzi-1111116172553>

given as to how this can be improved and what would be more appropriate outcome indicators. If indicators of disease, outbreaks, and recalls are backward looking and fail to recognize the otherwise good performance of industry in meeting food safety objectives, what measures could be introduced that provide a high degree of transparency and are nationally reportable?

2. Lack of national consistency between jurisdictions

Model Food Bill

AFGC supports the research and finding of the Draft Report that the Model Food Bill has not been consistently adopted across jurisdictions in Australia, and that there are significant differences in the substance and the drafting of the State legislation. These differences in turn impose substantial and unnecessary costs on companies operating at a national level, requiring industry to have a high degree of familiarity, and the ability to interpret the requirements for eight different sets of regulations, rather than a single uniformly adopted Model Food Bill.

AFGC notes the comments provided to the commission by jurisdictions attempt to justify the variation as providing a better regulatory outcome for their jurisdiction which is at odds with other statements that they have a “commitment to reduce regulatory burden” and ensure public health and safety. In particular, AFGC notes the views of Queensland (page 397 of the Draft Report) which states that *“the[Queensland] Food Act 2006 does not imposes additional regulatory requirements, despite the Commissions findings that the Act contains nearly twice as many provisions as the Model Act”*. AFGC remains concerned that jurisdictions fail to understand that variation in regulation between jurisdictions imposes additional cost on industry in having to employ specialist regulatory compliance staff, take additional measures to ensure compliance, and apply different measures to company operations in each of the jurisdictions.

Business environment

Protection of public health and safety must remain paramount in food standards, but for other issues of less importance to consumers the interests of the industry should receive a greater consideration as ultimately, the whole community will benefit if food industry remains profitable and competitive.

The Draft Report highlights considerable differences in the approaches by jurisdictions to enforcement priorities (Page 170). While these approaches are consistent with the differences between jurisdictions in the allocation of state government funding and resources, it also highlights the difficulties that arise. A concern in the high level of expenditure on sampling, testing, investigations and Audits is the lack of justification, effectiveness or national coordination of enforcement activities. In contrast, most jurisdictions give medium to low enforcement priority to labelling enforcement.

Self- and co- regulatory approaches

There is a strong case for combined and complementary regulatory and self- and co- regulatory approaches in food safety, food composition, and food labelling. The industry has several examples of effective codes of practice and would welcome opportunities to explore their greater use, provided they are fully effective at meeting their objectives and high levels of compliance can be secured.

The regulatory burden on the food industry and governments in Australia can be substantially reduced by reforming regulatory arrangements, and for government to consider the legitimate role of industry to undertake self-regulation. This requires jurisdictions to accept that industry has a role to play and to be prepared to work as partners rather than as adversaries in developing joint industry-government approach.

Industry recognises that developing processes and systems that enable greater recognition by both government and industry of food safety audits undertaken by appropriately qualified and certified personnel has the potential to improve regulatory compliance while reducing the overall compliance burden.

The National Food Safety Auditor Certification Scheme has been developed to provide recognition for auditors of HACCP-based food safety management systems broadly across the food industry and also in specific industry sectors. The scheme has been designed with considerable input from manufacturers, retailers and enforcement agencies and is designed to enable independent third party audit reports to be accepted across industry and government. In effect, one audit permits the audit report to be used for multiple stakeholders instead of having to have multiple audits. In the NFSA scheme, applicants may also seek certification to Industry-based Scopes based on risk levels and consistent with their prior experience in working in the industry.

The NFSA Scheme identifies the criteria necessary to determine an Applicant's competency to perform food safety audits. These criteria include the requirement for the Applicant to demonstrate specific knowledge, skill, personal attributes and qualifications. The culmination of this work is a food safety auditor certification scheme designed and endorsed by industry; delivering a high caliber of food safety auditor to support the whole supply chain; and recognized nationally and internationally.²

The scheme was designed to be consistent with the provisions of the Model Food Bill, which provides for the ability of jurisdictions to recognise an "authorised officer" to be able to carry out a regulatory audit. It was intended that in developing a personnel certification scheme which assessed the skills and competency of the food safety auditor, jurisdictions would be able to accept third party audit reports provided by such auditors and thereby reduce the compliance burden on both industry and government. However, such a scheme has yet to be put in place by jurisdictions and this appear to be further hampered by jurisdictional inconsistencies in the adoption of the Model Food Bill.

² RABQSA Personal Certification, http://www.rabqsa.com/cb_nfsa.html [accessed 25/11/ 2009]

AFGC MEMBERS AS AT NOVEMBER 2009

Arnott's Biscuits Limited
Snack Foods Limited
The Kettle Chip Company Pty Ltd
Asia-Pacific Blending Corporation Pty Ltd
Barilla Australia Pty Ltd
Beak & Johnston Pty Ltd
BOC Gases Australia Limited
Bronte Industries Pty Ltd
Bulla Dairy Foods
Bundaberg Brewed Drinks Pty Ltd
Bundaberg Sugar Limited
Cadbury Schweppes Asia Pacific
Campbell's Soup Australia
Cantarella Bros Pty Ltd
Cerebos (Australia) Limited
Christie Tea Pty Ltd
Clorox Australia Pty Ltd
Coca-Cola Amatil (Aust) Limited
SPC Ardmona Operations Limited
Coca-Cola South Pacific Pty Ltd
Colgate-Palmolive Pty Ltd
Coopers Brewery Limited
Dairy Farmers Group
Danisco Australia Pty Ltd
Devro Pty Ltd
DSM Food Specialties Australia Pty Ltd
DSM Nutritional Products
Earlee Products
Ferrero Australia
Fibrisol Services Australia Pty Ltd
Fonterra Brands (Australia) Pty Ltd
Foster's Group Limited
Frucon Beverages (Australia)
General Mills Australia Pty Ltd
George Weston Foods Limited
AB Food and Beverages Australia
AB Mauri
Cereform/Serrol
Don
GWF Baking Division
George Weston Technologies
Jasol
Weston Cereal Industries
GlaxoSmithKline Consumer Healthcare
Golden Circle Limited
Goodman Fielder Limited
Meadow Lea Australia
Quality Bakers Aust Pty Ltd
H J Heinz Company Australia Limited
Harvest FreshCuts Pty Ltd
Hoyt Food Manufacturing Industries Pty Ltd

Johnson & Johnson Pacific Pty Ltd
Pfizer Consumer Health
Kellogg (Australia) Pty Ltd
Day Dawn Pty Ltd
Specialty Cereals Pty Ltd
Kerry Ingredients Australia Pty Ltd
Kikkoman
Kimberly-Clark Australia Pty Ltd
Kraft Foods Asia Pacific
Lion Nathan Limited
Madura Tea Estates
Manildra Harwood Sugars
Mars Australia
Mars Food
Mars Petcare
Mars Snackfood
McCain Foods (Aust) Pty Ltd
McCormick Foods Aust. Pty Ltd
Merisant Manufacturing Aust. Pty Ltd
National Foods Limited
Nerada Tea Pty Ltd
Nestlé Australia Limited
Nestlé Foods & Beverages
Nestlé Confectionery
Nestlé Ice Cream
Nestlé Nutrition
Foodservice & Industrial Division
Novartis Consumer Health Australasia
Nutricia Australia Pty Ltd
Ocean Spray International Inc
Parmalat Australia Limited
Patties Foods Pty Ltd
Peanut Company of Aust. Limited
Procter & Gamble Australia Pty Ltd
Gillette Australia
PZ Cussons Australia Pty Ltd
Queen Fine Foods Pty Ltd
Reckitt Benckiser (Aust) Pty Ltd
Ridley Corporation Limited
Cheetham Salt Limited
Sanitarium Health Food Company
Sara Lee Australia
Sara Lee Foodservice
Sara Lee Food and Beverage
SCA Hygiene Australasia
Sensient Technologies
Simplot Australia Pty Ltd
Spicemasters of Australia Pty Ltd
Stuart Alexander & Co Pty Ltd
Sugar Australia Pty Ltd
SunRice

Swift Australia Pty Ltd
Tate & Lyle ANZ
The Smith's Snackfood Co.
The Wrigley Company
Tixana Pty Ltd
Unilever Australasia
Wyeth Australia Pty Ltd
Yakult Australia Pty Ltd

Associate Members

Accenture
Australia Pork Limited
Australian Dietetic Services
ACI Operations Pty Ltd
Amcor Fibre Packaging
CAS Systems of Australia
CHEP Asia-Pacific
Concurrent Activities
CoreProcess (Australia) Pty Ltd
Dairy Australia
Exel (Aust) Logistics Pty Ltd
Food Liaison Pty Ltd
FoodLegal
Food Science Australia
Foodbank Australia Limited
IBM Business Cons Svcs
innovations & solutions
KPMG
Leadership Solutions
Legal Finesse
Linfox Australia Pty Ltd
Meat and Livestock Australia Limited
Monsanto Australia Limited
New Zealand Trade and Enterprise
Promax Applications Group Pty Ltd
Sue Akeroyd & Associates
Swisslog Australia Pty Ltd
The Nielsen Company
Touchstone Cons. Australia Pty Ltd
Visy Pak
Wiley & Co Pty Ltd

PSF Members

Amcor Fibre Packaging
Bundaberg Brewed Drinks Pty Ltd
Cadbury Schweppes Asia Pacific
Coca-Cola Amatil (Aust) Limited
Foster's Group Limited
Golden Circle Limited
Lion Nathan Limited
Owens Illinois
Visy Pak

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