



April 2006

**Dietitians Association of Australia (DAA) response to the Proposed
Legislative Changes to the
*Food Standards Australia New Zealand Act 1991***

About DAA

The Dietitians Association of Australia (DAA) is the largest nutrition focussed organisation in Australia representing a membership of over 3000 dietitians, dietetic students and Associate members.

Its mission is to '*support members*' and to advocate for '*Better food, Better health, Better living for all*'.

Introduction

DAA welcomes the opportunity to comment on the document and provides the following comments on the proposed legislative changes. DAA has sought feedback from its membership on this issue, in particular members working in the food regulation arena contributed to the discussion.

**PART A: OUTSTANDING COUNCIL OF AUSTRALIAN
GOVERNMENTS AMENDMENTS**

**1. Streamline processes for setting MRLs between the APVMA and
FSANZ**

No comment

**2. National food recall power for the Australian Government Minister for
Health and Ageing**

In the event of any threat to the safety of the food supply it is desirable to be able to implement a coordinated nation-wide response in the shortest possible time. DAA therefore supports the recommendation in the Blair report but cannot offer any advice on the best option.

PART B: RECOMMENDATIONS ARISING FROM EXPERIENCE WITH THE NEW SYSTEM

3. Coordination of policy development and FSANZ processes

DAA supports the proposed implementation.

4. Partial approval of an application

DAA supports the proposed implementation.

5. Explicit function to provide information on the Food Standards Code

DAA supports the proposed implementation.

6. Extend the “Exemption from Suit” provisions in the Act

No comment

7. Have regard to similar proposals, as well as applications

DAA supports the proposed implementation

8. FSANZ must make a final assessment

DAA supports the proposed implementation.

9. Editorial notes and statements of purpose

DAA supports the proposed implementation.

PART C: RECOMMENDATIONS ARISING FROM THE FSANZ ASSESSMENT AND APPROVAL PROCESSES REVIEW PROJECT

10. Application requirements

DAA foresees that there may be applicants without the resources to comply with the minimum application requirements. This could give unfair advantage to large corporations and companies over smaller or less well resourced companies and individuals in the community. While DAA supports the proposed implementation, the Association recommends that there should be a mechanism in place whereby an applicant can seek help from FSANZ in the development of an application. The application for which approval is to be sought should be of significance (as assessed by FSANZ) and the applicant should be able to show why they are unable to provide the minimum application requirements before assistance is provided by FSANZ. The assistance

from FSANZ could be in the form of access to their reference material/library and guidance in the preparation of the application.

11. FSANZ assessment and public consultation process

DAA supports the proposed implementation but requests clarification on who will determine whether an application is a major, intermediate or minor revision.

If, during the single round of public consultation for an application which has not been classified as a major or minor revision, it becomes apparent that the revision is more significant than originally thought, or significant public interest issues are raised, DAA requests that there be the opportunity for the application/proposal to be reclassified as major and therefore have a second round of public consultation.

12. Ministerial Council policy guidance

DAA supports the proposed implementation.

13. Ministerial Council reviews

DAA supports the proposed implementation.

14. Protection of commercially valuable information – health claims

Proposed implementation

How is the expert committee to be determined? With regard to expert committees established to assist FSANZ and jurisdictions assess health claims, defining experts and avoiding conflict of interest would need to be carefully considered. Public health and consumer representation is essential. The legal status, reporting responsibility and liability of such groups would also need to be clarified.

Unintended impacts

- High level health claims may become biased towards those initiated by companies involved in the production of processed and value-added products.
- The public may become confused in choosing between a processed or value-added food with a high level health claim and an unprocessed or primary food without a health claim that may have equal or superior health benefits.
- Loss of public consultation that could impact negatively on the credibility of FSANZ to ensure public health and safety of the food supply.
- There are also questions as to how jurisdictions and the expert committee will cope with this additional work and responsibility.

- There is also the question of who wears the cost/blame should unforeseen issues arise in the marketplace.

Limitations

- To ensure the best interests of the Australian and New Zealand populations are considered, a broad consultation is required – this may not occur if the application is not made available for public consultation.

Costs outweighing benefits

- DAA anticipates an increased workload for health professionals, and dietitians in particular, who will have to become familiar with the various health claims and spend additional time with patients and clients explaining how health claims on food labels will impact on personal food choices in relation to particular needs. This represents a cost to health professionals that can only be recovered through higher charges to clients and patients (consumers).
- If large numbers of high level health claims are approved, there is the potential for consumers to become overwhelmed. This may result in consumers ignoring all claims so that any positive benefits for both consumers and industry could be lost. DAA recommends limiting the number of high level health claims approved.

DAA requests clarification regarding who will be responsible (other than individual health professionals) for providing the public education for consumers to assist them to understand health claims and how they might be used to improve food choices at point of sale.

DAA requests representation on the expert committee being established as part of the assessment process for acceptance of new high level health claims.

Costs for convening the expert committee need to be covered to ensure that appropriate representation is not precluded

The expert committee needs to be covered in terms of liability risk for advice provided

15. Protection of commercially valuable information – novel foods

Proposed implementation

DAA supports a product-specific and maker-specific 15 month exclusive period.

There is likely to be a grey area of interpretation when a novel food requires only one round of public consultation or when it is considered to be a significant change to the Food Standards Code under recommendation 11 and requires two rounds of public consultation.

Contact for further information

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