



18 June 2019

Food Standards Australia New Zealand  
PO Box 5423  
KINGSTON ACT 2604  
AUSTRALIA

By email: [submissions@foodstandards.gov.au](mailto:submissions@foodstandards.gov.au)

To whom it may concern

**Submission to Food Standards Australia New Zealand Call for Submissions - Application A1166**

Brown-Forman Australia Pty Ltd lodges this submission in support of Application A1166 by Spirits New Zealand Inc for amendment of the Australia Food Standards Code to lower the minimum alcohol percentage specified for Tequila only from 37% to 35% abv.

**About us**

Brown-Forman was founded in 1870 and is one of the largest global spirits and wine companies, with annual sales in excess of US\$3billion.

For almost 150 years, Brown-Forman Corporation has enriched the experience of life by responsibly building fine quality beverage alcohol brands, including Jack Daniel's Tennessee Whiskey, Finlandia Vodka, Herradura Tequila, Sonoma-Cutrer wines and Woodford Reserve Kentucky Bourbon.

At a global level, we are a member of the International Association for Responsible Drinking (**IARD**), and a signatory to the Global Actions on Harmful Drinking commitments.

**Brown-Forman in Australia and New Zealand**

Brown-Forman Australia Pty Ltd (**BFA**) has its headquarters for Australia, New Zealand and the Pacific in Surry Hills, Sydney, NSW.

BFA is a member of both Spirits & Cocktails Australia (formerly known as the Distilled Spirits Industry Council of Australia, Inc or DSICA), Spirits New Zealand, Inc and Alcohol Beverages Australia.

Spirits & Cocktails Australia's members are the leading manufacturers and importers of distilled and premixed spirits operating in the Australian market (refer appendix 3 to Application A1166).

Spirits New Zealand, Inc represents the substantial majority of spirits importation, production and distribution in New Zealand.

Together with our fellow members and signatories, we are proud to co-fund the Alcohol Beverages Advertising Code (**ABAC**), a co-regulation scheme with government to assure marketing responsibility and compliance, and **Drinkwise**, the social campaigning and educational body, to help consumers better understand alcohol, and to make informed and responsible consumption decisions.

BFA employs approximately 150 Australians across our Sydney and interstate offices in Australia and New Zealand, and sustain AUS\$200m+ annual economic contribution via excise taxes and production arrangements. We are also significant supporters of the Australian and New Zealand creative marketing and media industries via our advertising and marketing activity.

Brown Forman owns the Herradura, El Jimador and Pepe Lopez brands of tequila.

## **Submission**

BFA supports Application A1166 for amendment of the Australia Food Standards Code to lower the minimum alcohol percentage specified for Tequila only from 37% to 35% abv.

The lowering of the alcohol by volume minimum threshold for Tequila in the Code will enable all spirits legally entitled to use the Tequila GI under the laws of Mexico to be sold in Australia and New Zealand.

Changing the minimum threshold for Tequila in Australia and New Zealand would bring the Code into alignment with other developed nations, such as the EU and Canada, who allow tequila to be placed on the market at the minimum alcohol content specified by Mexico. In this respect, Australia and New Zealand is currently out of step with those developed markets, which enable tequila to be sold at any alcohol by volume level above 15%.

Indeed, as stated by Food Standards Australia New Zealand in clause 1.4.4 of the call for submissions - Application A1166, New Zealand, Australia and Mexico are all signatories to the definition of "geographical indication" contained in Article 23 of the WTO (World Trade Organisation) Agreement on

Trade Related Aspects of Intellectual Property (WTOa), under which Tequila has been a recognised GI since 1974 and a registered GI since 1978.

The changing of the Code in accordance with the current application is unlikely to have a significant impact on trade, and would actually benefit trade between these countries by expanding the brands of tequila available to consumers in Australia and New Zealand.

Lowering the minimum threshold for alcohol by volume for tequila would enable consumers in Australia and New Zealand to enjoy a variety of premium drinks across different price points which are currently available in Mexico but which would not otherwise legitimately be able to be marketed and sold as Tequila under the current Code, and would enhance competition between producers across this region.

Brown-Forman agrees with Food Standards Australia New Zealand's assessment that the direct and indirect benefits that would arise from a successful application most likely outweigh the associated costs.

### **Summary**

BFA and its executive team fully supports the Application A1166 and encourages Food Standards Australia New Zealand to amend Standard 2.7.5 of the Code to lower the minimum percentage of alcohol by volume for Tequila from 37% abv to 35% abv.

Please let me know if you have any questions.

Yours sincerely



**Kylie McPherson**  
**Director, Corporate Affairs and Legal ANZPI and APAC**  
**Brown Forman**