

Dear Sir or Madam,

Thank you for giving us the opportunity to make another submission regarding proposed changes to the Food Standards Code 2.3.6. We believe we are well-placed to offer informed comments on the proposed changes.

Background about us

Our company has been selling fine kava in New Zealand for a number of years. We pride ourselves in selling high quality kava. All of our kava is carefully processed in HACCP certified facilities in Vanuatu.

Our focus is on the noble kava powders from Vanuatu, but in the past we experimented with bottling kava and making it shelf stable. Our research was generously supported by Callaghan Innovation and facilitated by the Food Innovation Network (FIN). We managed to produce shelf-stable, high quality kava without any food additives. The beverage was prepared via the traditional cold water method and then stabilised using proprietary processes developed at FIN. We've experimented with a variety of methods to achieve shelf-stability. One of the methods involved the usage of a processing aid. At all stages of our R&D efforts we consulted regularly with the Food Bowl's compliance officers who engaged with the Ministry of Primary Industries before allowing us to release the products for sale.

The product was quite successful and very well-received. Most of our production output was exported to the United States of America (where it was in a very high demand), but we also sold the products around New Zealand, including via the Auckland kava bars and wellness centres.

We stopped production in early 2020 due to the disruptions caused by the COVID-19 pandemic. Currently, our company is not involved in production of any kava beverage and we have no plans to resume it. However, we've shared our knowledge with another New Zealand business who is now conducting further research work and product development at the Food Bowl's factory.

The reason why we mention the above is to suggest that we are well-positioned to provide insightful commentary on the matters related to the proposed changes, particularly when it comes to the proposed ban on the usage of processing aids in the manufacturing of kava products.

Our views regarding existing regulations: broadly good and successful

New Zealand has been seen as the global role model for sensible, evidence-based regulations of kava. The existing code 2.6.3. is both sensible and in line with the current research, as well as well aligned with the position of the World Health Organization, leading scientists, Pacific island countries' governments' position, and largely with the newly adopted Codex standard. It, reasonably and in line with tradition, allows kava to be sold as food as long as it consists of nothing but peeled kava roots (when sold fresh or dry), or when

it's prepared via cold water extraction of kava roots. It requires a sensible mandatory statement, and it prohibits mixing kava with other foods. In our understanding, this last point ensures that kava is not consumed by unsuspecting customers who may be unaware of kava's properties. All of these rules make sense. And they've been in effect for nearly two decades now.

During this period, the quality of kava sold in New Zealand has increased (primarily due to consumer demand, but perhaps also due to enforcement of food-related regulations), a significant number of businesses have been created and kava has become a part of lifestyle for New Zealanders of diverse ethnic and cultural backgrounds. Indeed, our own customers represent virtually all major ethnic groups and demographics resident in Aotearoa New Zealand. Obviously, by far most of the kava is consumed informally in kava clubs, at homes, during ceremonies. However, Auckland alone has a number of vibrant kava bars, all of which sell takeaway kava. There are kava trailers/food trucks and/or businesses serving kava in Waikato, Bay of Plenty, East Cape, Canterbury and Otago. Kava is served in cafes, but also in fitness and wellness centers. It is sold at supermarkets and in organic food shops. It remains a fairly niche product and almost certainly will never become anywhere near as mainstream as coffee or tea, but it has its place in the cultural landscapes and everyday lives of thousands of New Zealanders. And there is no indication, publications or signs that the current regulatory framework is resulting in any significant amount of negative health outcomes beyond what one might expect from such foods covered by the Food Standard as coffee, tea, juices.

Indeed, the only potential issues with the quality (and safety) of kava in New Zealand we ever hear about are related to ordinary food safety matters (poor hygiene, poor processing standards, lack of quality control) or dishonest business practices (occasional reports about vendors mixing kava with flour and not adhering to common sense food safety practices)

In this context, we were quite perplexed when the new proposals came out last year (with a strange apparent sense of urgency) and made a submission opposing some aspects of the proposal, particularly the proposed ban on takeaway kava (which was thankfully abandoned following public outcry).

To avoid repeating some of the key issues raised in earlier submissions, we will now just focus on the remaining proposed changes.

Our view on the proposed requirement that kava food products must only be obtained from the Noble varieties of the species of *Piper methysticum* that are named in the Codex Regional Standard for Kava

We strongly agree with the proposal to limit the sales of kava as food to noble cultivars only. This is in line with the legislation in leading Pacific kava exporters and reflects the views of leading kava scientists and experts. Our company has always been selling only noble kava cultivars and we are happy that the food standard will be aligned with the scientific and industry consensus on this matter.

Our view on the prohibition of use of food additives: little justification

The sole argument presented against the use of food additives and processing aids is that these practices are “inconsistent with historical safe preparation”. This statement is fairly questionable considering that kava itself was traditionally prepared with liquids other than pure water (e.g. coconut water), or even with the assistance of natural amylase (found in saliva - kava was originally prepared from chewed roots).

We strongly support sticking to traditional preparation methods (cold water extraction of peeled roots), particularly in light of the questionable effectiveness and safety profile of products made using organic solvents. Concerns over those chemical extracts is what motivated the review of kava regulations in 2002-2004. However, these concerns cannot be logically extended as an argument that a kava beverage prepared using cold water extraction can be rendered automatically less safe by mixing it with other foods or processing aids.

We are not aware of any evidence that, for example, combining traditionally prepared kava with coconut water, coconut flavour or any fruit juice would make it less safe. The only argument that appeared to be suggested in 2004 was that if kava was to be added to other food products, it could then be consumed by wider populations not aware of its unique effects, presumably because they might not even be aware that certain products contain kava (e.g. if its rather unpleasant flavour is masked by flavours/juices, or if kava is merely added as an ingredient to other products that the public would not associate with kava). When interpreted in this way, it does perhaps make some sense to avoid adding kava to other foods or masking its flavour with food additives. But one could also argue that it would be sufficient to mandate clear and highly visible statements on the labels informing customers that products contain kava.

From our point of view, we have never had any desire to add any other foods to kava or mask or alter its original flavour or aroma, as we consider it to be an integral part of the traditional kava experience. We are thus not particularly concerned by the proposed reinforcement of the prohibition against mixing kava with foods/food additives, but wish to note that the presented justification for such a ban seems rather weak or unclear.

The proposed ban on processing aids: unjustified and unreasonable .

When it comes to the proposed prohibition of the use of processing aids, this proposal appears entirely unjustified. We are not aware of any evidence or even a reasoned argument why using permitted processing aids with kava could render it any less safe. Indeed, in some cases, it appears that the use of processing aids could enhance the safety of kava products.

To use a specific example, one could use specific permitted processing aids with kava in order to facilitate heat pasteurisation (pasteurising traditionally prepared kava itself would reduce any risk of microbial contamination and would thus make the product safer) and this would not result in the kava beverage tasting, looking significantly different to its original, traditional form. Indeed, heat pasteurising kava *without* the use of such processing aids would transform it into a substantially different product with dramatically higher viscosity, altered flavour and aroma. Naturally, those who might wish to stabilise kava using other methods (and there are several other options) could do so without having to use processing

aids, but these methods tend to be more expensive or result in a product with a shorter shelf life than heat pasteurisation assisted with processing aids.

Furthermore, the proposed ban on processing aids seems particularly unjustified and unreasonable considering that it could be very difficult to enforce this rule when it comes to kava products manufactured overseas (and perhaps even domestically). As it might be hard (or even impossible) to determine that processing aids were used in the manufacturing of specific products, and as producers are generally not required to list processing aids on product labels, overseas producers making kava products with the use processing aids would be able to sell those freely in New Zealand and Australia.

Conclusion

In sum, we are supportive of both the current wording of the Code and the proposed requirement that only noble kava varieties should be used. We are ambivalent about the proposed ban on the use of food additives because it's not clear why such a prohibition is deemed necessary, while at the same time we also do not see any persuasive arguments that such additives could be significantly useful or beneficial to traditional kava producers. We are opposed to the proposed ban on the use of processing aids as we believe they could be useful and we see no persuasive scientific reasons why they should be banned, especially considering that any such ban in New Zealand or Australia could simply mean an advantage to overseas-based producers.

Thank you again for the opportunity to comment.

The Kava Society Ltd