NEW ZEALAND
FOOD&GROCERYCOUNCIL

27 July 2016

Food Standards Australia New Zealand
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NEW ZEALAND

Email: submissions@foodstandards.gov.au

Dear Sir/Madam

Attached are the comments that the New Zealand Food & Grocery Council wishes to present on the ***Call for submissions – Proposal P1026 Lupin as an Allergen.***

Yours sincerely

Katherine Rich
Chief Executive

Call for submissions – Proposal P1026 Lupin as an Allergen

Submission by the New Zealand Food & Grocery Council

27 July 2016

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1. The New Zealand Food & Grocery Council ("NZFGC") welcomes the opportunity to comment on the ***Call for submissions – Proposal P1026 Lupin as an Allergen***.

2. NZFGC represents the major manufacturers and suppliers of food, beverage and grocery products in New Zealand. This sector generates over $34 billion in the New Zealand domestic retail food, beverage and grocery products market, and over $31 billion in export revenue from exports to 195 countries – some 72% of total merchandise exports. Food and beverage manufacturing is the largest manufacturing sector in New Zealand, representing 44% of total manufacturing income. Our members directly or indirectly employ more than 400,000 people – one in five of the workforce.

OVERARCHING COMMENTS

3. Lupin as an ingredient in the human food supply has hardly any known occurrence in New Zealand and very low occurrence in Australia. Indeed, worldwide by 2010, there were still only 151 cases reported of allergic reaction (p7 SD1).

4. We recognise that lupin meets an international measure of criteria to be classed as a significant new food allergen but 24 reported cases across Australia and New Zealand (none in New Zealand) out of a combined population of greater than 30 million is not compelling. We recognise there is potential for some 300,000 to be sensitive due to cross-reactions with those with peanut and soy allergens but this, too, may be on the high side. We also recognise that lupin and related products in the food supply may grow. We nonetheless remain concerned at the estimations, unknowns, potentials, extrapolations and possibilities used throughout the assessment.

5. One way of managing this is to have the legislative provisions in place but with a commencement date for some period in the future and in the meantime formally apply an industry code of practice and a further deadline for monitoring impact. An alternative is to develop and apply a Code of Practice and evaluate the impact in due course. NZFGC could support either approach.

SPECIFIC COMMENTS

Risk Management

6. NZFGC considers Option 1, Maintain the status quo, is not viable knowing there is a group, albeit miniscule, of the population who are allergic (24 known in Australia, none in New Zealand) or potentially (around 1.1% of the population or 300,000 across both countries) who may be allergic to lupins and related products. We nonetheless remain concerned at the estimations, unknowns, potentials, extrapolations and possibilities used throughout the assessment.

7. Option 2 relates to a voluntary Code of Practice for manufacturers on labelling for lupin and related products. NZFGC is attracted to this approach for New Zealand given that there is no evidence of use in New Zealand of lupin and related products in the food supply and very few imports containing lupin. As well, we note that "FSANZ is not aware of any packaged or unpackaged lupin food product that does not declare the use of lupin. Therefore lupin products appear to be already consistent with the proposed change to the Code ...' (p10 Call for Submissions). Noting that a substantial proportion of New Zealand's imported food is sourced from Australia, the suggestion is not only that there is very little imported that contains lupin but also that which does contain lupin is more than likely to be labelled accordingly.

8. However, in the interests of trans-Tasman consistency, in this case, unless a Code of Practice applied across the region, effectiveness could be compromised.

9. The contra view would be that if the use of lupin and related products is so low (or for New Zealand, non-existent) then it will not be a burden on industry because it does not occur or because it is already labelled. FSANZ states this in its Call for Submissions (p10) 'This means there will most likely be no regulatory cost for any food manufacturers presently using lupin'. Every regulation carries cost – for industry to monitor, require suppliers to declare, include in compositional and labelling checks etc – and for government in carrying out compliance surveys, testing and investigating. A Code of Practice does not remove cost from industry but would remove cost from Government.

10. We suggest both Options 2 and 3 apply as set out in paragraph 13 below.

11. Option 3 is regulation. This is based on potential affected population of a potential growth in use and the potential for cross-reactivity of peanut and soy allergies. This is a lot of potential on which to base regulation. We suggest that regulation may well eventuate in time notwithstanding the potentials involved.

12. We appreciate that "The determination that the regulatory option is likely to have the greatest net benefit is based on qualitative analysis" (p11 Call for Submissions) but we have some concerns that this is "…due to difficulty obtaining quantitative information from industry" (p11 Call for Submissions). Industry in New Zealand did provide some information but when the information does not exist because an ingredient is not used, it is unrealistic to lay the blame for a 'lack of quantitative data' on industry.

13. We understand that FSANZ was able to follow up on data provided to an AFGC survey of the PIF. FSANZ also had access to lupin product manufacturers and potentially to overseas manufacturers. The International Lupin Association may have assisted and we note it held an international conference on lupins in 2015 that might have presented a forum for enquiry. A research project similar to that commissioned for consumers might have been undertaken to gather the quantitative information and might still be undertaken. We recommend that where such information is critical to regulatory decision-making in the future, greater clarity about this need and research proposals to gather the 'hard' data should be developed for discussion and commissioning. Relying on the Call for Submissions for quantitative data is one way but it is a passive approach to data collection.

14. On balance, we could support implementation of both options 2 and 3. This would see the legislative provisions put in place but with a commencement date for some period in the future. In the meantime, an industry Code of Practice should be developed and applied across both countries. This would be coupled with a deadline for evaluating impact and a formal, quantitative survey undertaken of both allergen incidence and application of the Code of Practice by industry. The outcomes of the evaluation would determine the need for commencement of the regulation.

15. Alternatively, NZFGC could support proceeding with Option 2 only at this time, a Code of Practice, together with evaluation described above in due course.