

24 May 2000
12/00

STATEMENT OF REASONS

PROPOSAL P218

FOR RECOMMENDING A VARIATION TO STANDARD A9 IN RELATION TO FOLATE / NTD HEALTH CLAIMS

Background

As a result of a Ministerial direction in 1998 the Australia New Zealand Food Authority (the Authority) developed a proposal (P170) to consider a folate/neural tube defect (NTD) health claims pilot as a matter of urgency and to truncate its usual assessment processes. Following recommendations to the Australia New Zealand Food Standards Council (ANZFSC) the variation to the *Food Standards Code* to permit the folate/NTD health claims pilot has been gazetted in Australia and New Zealand.

Discussion

The Authority has before it a proposal to amend the *Food Standards Code* to list additional products in the table to subclause (e) of Standard A1(19) and the folate/NTD health claims register.

The Authority has recommended to the ANZFSC that it adopt the draft variation to the *Food Standards Code* because these products meet the required nutritional eligibility criteria, which are that they contain at least 40 micrograms of folate in each serving (as specified in the nutrition information panel), and are a primary food as defined in Standard A9, or else if they contain, in each serving, not more than 14 g fat; 5 g saturated fat; 500 mg sodium; 10 g in total of added sugars and honey.

Further Opportunity for Entry

To allow more flexible entry into the pilot, whilst maintaining a system which will allow proper monitoring and evaluation of the pilot, applications are considered by the Authority, and ANZFSC approval sought, on a rolling basis. The list of approved products will continue to be expanded during the pilot as applications are received and considered by the Authority.

This will involve assessing applications for approval of products by the Authority as they come in from industry. Those which are found to meet the nutritional eligibility criteria will be batched and the Authority will make further recommendations to ANZFSC out-of-session to amend the table to subclause (e) of Standard A1(19) and the folate/NTD health claims register.

AUTHORITY CONSIDERATION UNDER SECTION 36 PROVISIONS

With respect to this proposal the Authority is satisfied that this matter is one of minor significance or complexity and has therefore decided to omit to invite public submissions or undertake an inquiry.

REGULATORY IMPACT

The Authority has been unable to undertake the formal regulatory impact assessment process (which would also fulfill the requirement in New Zealand for an assessment of compliance costs), given the nature of the health claims pilot and the limited period of it being in place.

WORLD TRADE ORGANIZATION (WTO) NOTIFICATION

Australia and New Zealand are members of the WTO and are bound as parties to WTO agreements. In Australia, an agreement developed by the Council of Australian Governments (COAG) requires States and Territories to be bound as parties to those WTO agreements to which the Commonwealth is a signatory. Under the agreement between the Governments of Australia and New Zealand on Uniform Food Standards, the Authority is required to ensure that food standards are consistent with the obligations of both countries as members of the WTO.

In certain circumstances Australia and New Zealand have an obligation to notify the WTO of changes to food standards to enable other member countries of the WTO to make comment. Notification is required in the case of any new or changed standards which may have a significant trade effect and which depart from the relevant international standard (or where no international standard exists).

This matter was not notified to the WTO because of the short term variation to the *Food Standards Code* will be in effect and the nature of the health claims pilot.

The commencement date of the draft variation be upon gazettal.

PROPOSED DRAFT VARIATION TO STANDARD A1(19)

Standard A1 is varied by inserting under the sub-heading Processed Foods in the Table to subclause (19)(e) -

Kraft Vegemite
Sanitarium Cornflakes
Sanitarium Soy Tasty

FOOD STANDARDS SETTING IN AUSTRALIA AND NEW ZEALAND

The Governments of Australia and New Zealand entered an Agreement in December 1995 establishing a system for the development of joint food standards. The Australia New Zealand Food Authority is now developing a joint *Australia New Zealand Food Standards Code* which will provide compositional and labelling standards for food in both Australia and New Zealand.

Until the joint *Australia New Zealand Food Standards Code* is finalised the following arrangements for the two countries apply:

- **Food imported into New Zealand other than from Australia** must comply with either the *Australian Food Standards Code*, as gazetted in New Zealand, or the *New Zealand Food Regulations 1984*, but not a combination of both. However, in all cases maximum residue limits for agricultural and veterinary chemicals must comply solely with those limits specified in the *New Zealand Food Regulations 1984*.
- **Food imported into Australia other than from New Zealand** must comply solely with the *Australian Food Standards Code*.
- **Food imported into New Zealand from Australia** must comply with either the *Australian Food Standards Code* or the *New Zealand Food Regulations 1984*, but not a combination of both.

- **Food imported into Australia from New Zealand** must comply with the Australian *Food Standards Code*. However, under the provisions of the Trans-Tasman Mutual Recognition Arrangement, food may be imported into Australia from New Zealand if it complies with the New Zealand *Food Regulations 1984* or *Dietary Supplements Regulations 1985*.
- **Food manufactured in Australia and sold in Australia** must comply solely with the Australian *Food Standards Code*, except for exemptions granted in Standard T1.

In addition to the above, all food sold in New Zealand must comply with the New Zealand *Fair Trading Act 1986* and all food sold in Australia must comply with the Australian *Trade Practices Act 1974*, and the respective Australian State and Territory *Fair Trading Acts*.

Any person or organisation may apply to the Authority to have the *Food Standards Code* amended. In addition, ANZFA may develop proposals to amend the Australian *Food Standards Code* or to develop joint Australia New Zealand food standards. ANZFA can provide advice on the requirements for applications to amend the *Food Standards Code*.

Any person or organisation may apply to the Authority to have the *Australian Food Standards Code* amended. In addition, the Authority may develop proposals to amend the *Australian Food Standards Code*. The Authority can provide advice on the requirements for applications to amend the *Australian Food Standards Code*.

FURTHER INFORMATION

Submissions: Submissions on this matter are not being sought as the Authority has completed its assessment of this matter and a recommendation is with the ANZFSO for consideration as a matter of urgency. Should the Council agree to the recommendation the Authority will then conduct an inquiry into this matter, which may or may not include a request for public submissions.

Further information on this and other matters should be addressed to the Standards Liaison Officer at the Australia New Zealand Food Authority at one of the following addresses:

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Requests for copies of other information papers should be addressed to the Authority's Information Officer at the above address, or Email info@anzfa.gov.au