



ALCOHOL BEVERAGES AUSTRALIA

**Submission to the
Department of Health**

Aspirations for the food regulatory system

21 JAN 2021

Food Regulatory Aspirations – Department of Health

Consultation questions:

Challenges and opportunities facing the broader food ecosystem

Please read pages 6 to 7 of the Consultation Paper before answering the question below.

The Consultation Paper describes several challenges and opportunities facing the food system.

1. What other key challenges and opportunities are facing the food system?

Ensure FSANZ retains its primary focus on food safety

ABA agrees with the statement made in the consultation paper that there is a need to clarify the role and purpose of the food regulatory system in the face of evolving circumstances and emerging challenges. It is critical to affirm a primary focus on food safety and avoid expanding the scope to accommodate an increasing array of longer-term public health considerations and non-safety related personal dietary choices.

The food regulation system was established to provide consumers with assurance on the safety of food available for purchase, aiming to prevent acute injury or illness as a direct result of consumption. Safety in this sense meant the immediate post-consumption period and required a focus on hygiene in manufacturing and the use of safe ingredients and additives.

Some stakeholders wish to see the mandate of FSANZ expanded to address issues relating to non-communicable, chronic disease and its link to diet, obesity and consumer behaviour. ABA notes that there are existing government agencies at both state/territory and

Commonwealth level tasked specifically with developing preventative health strategies and promotion of healthy lifestyle choices, including:

- Ministerial Drug & Alcohol Forum (a COAG Council)
- National Drug Research Institute
- National Drug & Alcohol Research Centre
- National Health and Medical Research Centre
- NSW Office of Preventive Health
- VicHealth
- Preventive Health Unit, Queensland Health
- Office of Health Protection & Licensing Services, SA Health
- Chronic Disease Prevention Directorate, WA Health

We note that obesity and chronic non-communicable diseases are caused by a complex mix of factors, including diet, exercise, drug and medication use, sleep, stress, environmental factors and genetics. They require a holistic approach to prevention and management that goes beyond the proper scope and capacity of the food standards system.

ABA also notes increased consumer interest in matters such as climate change, ecological sustainability, ethical considerations and supply chain visibility, but this does not mean the food regulatory system should be used to compel such information be provided on labels.

In relation to alcoholic beverages, we note some stakeholders seek to use the food regulatory system as a platform to pursue longer term behavioural change beyond simply assuring the safety and reliability of food products. We believe this is, and should remain, beyond the remit and competencies of the food standards system. Ideally, the scope of work of FSANZ should match the remit of Codex Alimentarius, where the focus is on contaminants and food borne illnesses. We note that as well as protecting consumer health, a secondary role for Codex is the promotion of free trade and removal of unnecessary technical barriers to trade.

ABA has been an active participant in FSANZ processes relating to labelling of alcoholic beverages including most recently P1050 – Pregnancy warning labels on alcoholic beverages. ABA believes the P1050 process, involving more than 13 years of deliberation, highlights the need to reconsider the role and objectives of FSANZ

and the decision-making processes observed when considering amendments to the Food Standards Code (the Code).

ABA was deeply disappointed with the outcome of P1050, which saw the adoption of a mandated three-colour pregnancy warning label for alcoholic beverages at a cost to industry of some \$400 million according to research commissioned by FSANZ. This includes initial setup costs of more than \$100,000 to hundreds of small brewers, distillers and winemakers across Australia and New Zealand. The vast majority of these costs could have been avoided by adopting the imagery and colour-contrast scheme recommended by the industry, and which is already being used voluntarily on the majority of alcoholic beverages sold across both countries.

Objectives and scope of the food regulatory system

Please read pages 8 to 10 of the Consultation Paper before answering the question below.

The Consultation Paper discusses the existing objectives and scope of the food regulatory system and if they remain fit for purpose.

2. Do you agree that the focus of reforms should be on ensuring the system is set up to support interface management across regulatory systems, enables collaborative risk assessment and triage of issues and provides a range of (regulatory and non regulatory) tools to support the system's objectives and empower consumers and industry?

Yes

No

If you answered 'no', please explain why not.

There must be one statement of food regulatory system objectives which is consistently applied across all strategic documents that relate to it. The discussion paper states that “for the most part, the scope of the food regulatory system is defined by the system’s objectives”. It is unclear what is meant by the term “the system’s objectives” in this sense, as the paper earlier goes to lengths to highlight the differences in stated objectives between three key documents associated with the system:

- the Overarching Strategic Statement (OSS) agreed by ministers;
- the Food Regulation Agreement (FRA); and
- the Food Standards Australia New Zealand Act (the Act).

Of these three documents, only the FSANZ Act has any legal standing as far as the food industry is concerned.

The OSS is a statement of collaborative intent between the Commonwealth and other jurisdictions which enforce the Food Standards Code. It does not supersede the objects of the FSANZ Act but merely serves to explain how ministers intend it to be applied. The OSS should be reviewed following the completion of the current review of the FSANZ Act to reflect the new legislation, it should not be considered a foundational document in its own right.

The FRA is a formal agreement between the various governments that participate in the governance of FSANZ. It establishes the administrative arrangements for the Ministerial Forum on Food Regulation and Food Regulation Standing Committee, which are referred to in the FSANZ Act.

No meaningful progress can be made on the future of the food regulatory system without agreement on its scope. FSANZ faces a conflict in relation to alcoholic beverages because some stakeholders seek to use the food regulatory system as a platform to pursue longer term behavioural change beyond simply assuring the safety and reliability of food products. We believe this is, and should remain, the role of dedicated preventative health agencies and not be dealt with through the food regulation system. Ideally, the scope of work of FSANZ should match the remit of Codex Alimentarius, where the focus is on contaminants and acute food borne illnesses.

We note the discussion paper states “it is proposed that the objectives outlined in the OSS should be retained and reflected in a revised FRA”. For the reasons outlined above, we submit the objectives of both the OSS and the FRA should be drawn from the objects of the FSANZ Act and therefore await the introduction of the new legislation following the current FSANZ Act review.

The paper also states “the focus moving forward should not be on setting ‘harder boundaries’ to determine what is in or out of the food regulatory system’s span of control”. On the basis of our experience

with activists utilising the food regulatory system as a trojan horse for non-safety related dietary change leading to scope creep within FSANZ, we disagree with this point. The scope of the food regulatory system should be clear and concise so that it can be understood and followed with confidence by all parties.

Aspirations for the food regulatory system

Please read pages 11 to 13 of the Consultation Paper before answering the questions below.

The Consultation Paper describes a set of proposed goals or aspirations for the food regulatory system, which are supported by a number of high level actions.

3. Is there anything missing from these aspirations and high level actions?

No

Yes

If you answered 'yes', what is missing from these aspirations and high level actions?

The alcohol industry's recent experience with the FSANZ determination P1050 Pregnancy warning labels on alcoholic beverages demonstrates a clear need for greater consideration of proportionality when determining regulatory measures. A transparent cost-benefit analysis or regulatory impact statement that is vetted by an independent third party would be helpful.

ABA was deeply disappointed with the outcome of P1050, which after more than 13 years in the FSANZ system saw the adoption of a mandated three-colour pregnancy warning label for alcoholic beverages at a cost to industry of some \$400 million according to FSANZ-commissioned research. This includes initial setup costs of more than \$100,000 faced by hundreds of small brewers, distillers and winemakers across Australia and New Zealand.

The vast majority of these costs could have been avoided without any detrimental impact on label information by adopting the imagery and colour-contrast scheme recommended by the industry, and which was already being used voluntarily on the majority of alcoholic

beverages sold across both countries.

4. Are there any aspirations or high level actions that you disagree with?

No

Yes

If you answered 'yes', which ones and why?

We disagree with the proposed goal to: “Reorient the system from being focused on ‘food regulation’ to focus on achieving shared objectives (where regulation is one tool used to achieve the objectives).”

While we support amending the application of food regulatory measures as necessary to keep pace with the evolving challenges of meeting food safety objectives, our position is that the food regulatory system should remain focused on food safety and not be expanded to broader public health and behavioural change.

FSANZ should not have a role in supporting broader public health or influencing diet or nutritional choices beyond acute food safety issues. Measures to reduce obesity or chronic conditions in the longer-term are outside FSANZ’s current statutory role and should remain so.

Health conditions such as obesity and chronic disease are caused by a range of factors. They require a holistic approach to prevention and management that goes far beyond the capacity of FSANZ or the food regulatory system to address and should be pursued elsewhere through more appropriate government agencies.