

## **SUBMISSION**

### **SUBMISSION TO FOOD STANDARDS AUSTRALIA NEW ZEALAND PROPOSAL P305 “EXCLUSIVITY OF NOVEL FOODS”.**

The New Zealand Food & Grocery Council (the FGC) welcomes the opportunity to comment on the Initial/Draft Assessment Report, Proposal P305 “Exclusivity of Novel Foods” (the Proposal).

The FGC represents the major food and beverage manufacturers and suppliers in New Zealand. Member companies supply 98% of the processed food and beverages sold by the domestic grocery retail industry and many are also the major exporters of processed food and beverages.

The food manufacturing industry contributes over \$9 billion to the domestic economy and is the largest employer in the manufacturing sector. In addition member companies contribute \$1.7 billion towards the export earnings in the form of elaborately transformed manufactured products.

### **GENERAL COMMENTS**

The FGC agrees that the provision of exclusivity within the Novel Foods Standard is a clear benefit to the industry as it will encourage innovation and allow those companies that expend considerable time and resources in the development of a novel food receiving a commercial benefit. Growing and transforming New Zealand’s economy is one of the highest priorities of Government. The food and beverage industry has been identified as an important sector to provide a platform for the development of innovative products and to increase export earnings. The proposed exclusivity permission in the Novel Food Standard will encourage investment in the development of innovative products.

Throughout the Reviews of the Food Standards Australia New Zealand Act 1991 and FSANZ’s processes, the FGC has always supported:

- the concept of exclusivity and gaining an advantage from “first to market” in prescribed circumstances
- the need to have clarity and certainty as to what constitutes Confidential Commercial Information.

(It is recognised the latter is not within the scope of the Proposal but it is, nevertheless, of utmost importance in the Novel Food Standard even where exclusivity is granted. The industry submits that it must continue to have input into what data constitutes Confidential Commercial Information.

## **SPECIFIC COMMENTS**

### **Period of Exclusivity**

The FGC supports the inclusion of a provision allowing for exclusive permission to be granted for a specific brand in the Novel Food Standard, or class of food, if sought by an Applicant. Some member companies however have advised that the period of exclusivity should be extended beyond fifteen months for the following reasons:

- Expenditure in the development of a novel food and in lodging an Application for a novel food approval is usually very high. Extension of the period of exclusivity to eighteen and preferably twenty-four months, would provide a greater incentive for manufacturers to develop novel foods.
- The costs of launching a new product onto the market are extremely high. Manufacturers will be reluctant to make changes to their manufacturing processes, packaging design, printing of new labels and determining and planning promotional activities (all parts of a new product launch) until their Application for the novel food is approved. The implementation of such arrangements can take 6 – 9 months and thus the period of exclusivity, in reality, may only be 6 – 9 months.
- If the product or ingredient is a seasonal one this may also delay the timing of going to market.

### **Exclusivity for Similar Applications**

The Proposal recognises that “the provision for exclusive permissions in the Standard would not prohibit other companies making an Application for approval of an exclusive permission of their own brand”.

That being the case the Novel Food Standard must make it clear that the granting of an exclusive permission to one Applicant does not preclude another Applicant from obtaining an exclusive permission for a similar product or ingredient.



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