

3 August 2018

Food Standards Australia New Zealand
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NEW ZEALAND

Email: submissions@foodstandards.gov.au

Dear Sir/Madam

The New Zealand Food & Grocery Council (NZFGC) is pleased to have the opportunity to comment on the ***Cost Recovery Implementation Statement: Development of food regulatory measures 2018-2019*** issued by Food Standards Australia New Zealand (FSANZ) on 5 July 2018.

We note that cost recovered activities account for only around 2% of the FSANZ work. However, these are the direct costs applied by FSANZ additional to the substantial costs that industry bears in order to engage with FSANZ in the standards development process whether by way of applications, meetings or workshops. All costs are important and we therefore appreciate the detail provided in the statement.

We note that nearly 60% of applications accepted onto FSANZ's Work Plan since 2007 have been cost-recovered and that while the waiting period before commencement of consideration of unpaid applications reduced to around one month in 2010-11, since then the waiting period has increased to its current 8 month period. This means 'paid' applications are the single way forward for matching regulator responsiveness to industry needs and time critical business operations.

We understand that cost recovery charges are designed to reflect as closely as possible the costs of undertaking individual processes associated with an application and the full costs of 'administration' (gazettal etc). Historically this latter cost has been a flat rate of \$10,000 with any unused amounts of this charge being refunded to the applicant. We also understand that the key cost driver in the assessment process is staff effort (70% of attributable costs) and that the underlying components of this cost driver have changed significantly over the period since the last review in 2012. The result is a substantial increase in the cost recovery rate (from \$115 to \$195) that cannot be phased in due to the 'full cost recovery policy'.

Significant time delays between cost recovery reviews and the resultant shocks to increased charges that industry faces can, in our view, be addressed through more frequent reviews. We appreciate there is a set (legislated) review period and a 'full cost recovery policy' that has resulted in the current review but we consider that since the data has been tracked over time, more regular 'non-mandated' reviews to progressively update the cost recovery system would substantially avoid the cost shock we now see. This would not only benefit industry from such shocks but would also have been an under recovery by Government over time. We do not see

any government agency being penalised for being timely and accurate with its cost recovery efforts.

In relation to the administrative charges, we are pleased to see the substantial reduction in these charges (from \$10,000 to \$3,000) due to the removal of the need for newspaper advertisements and reductions in the costs of the Australian Federal Register of Legislation costs. We are also pleased to see an increased gradation of the wide range of hours applied to applications that fall within the 'general procedure' category so that there are now 5 levels of 'hours for assessment'. This ensures as far as possible better targeting of costs for effort in the up-front fees paid by industry.

In relation to payment by instalments, we see no rationale for not extending the payment by instalments to Levels 1 and 2 of the general procedure/high level health claim category of applications. There is a significant step-change in hours from a minor procedure to general procedure (from a max 100 hours to max 350 hours, a difference of 250 hours). This is greater than the difference between any of the general procedure steps (all 150 hours). The threshold appears to be 'over \$100,000' which provides relief most likely for the largest businesses but is not equitable to those seeking lesser amendments to the Food Standards Code. Such a change might also go some way to addressing the substantial increase proposed.

In relation to the impact of previous increases to hourly charges on innovation, research and development, NZFGC has no data to demonstrate the effect. We suggest however, that the decrease in applications (and assessment waiting time) to 2014 may have been a consequence of application cost increases.

Finally we note in the section on stakeholder engagement that food consumers, food industry and public health professionals are noted as groups that it is not always possible to please. The omission is academics/researchers who are also stakeholders in the food system and variously involved in the work of FSANZ.

In conclusion, we would like to see:

- More frequent 'non-mandated' cost statement reviews to progressively update the cost recovery system over time and avoid the cost shock we now see
- Extension of the payment by instalments for applications that come within Levels 1 and 2 of the general procedure/high level health claim category of applications.

Yours sincerely

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