



18 June 2019

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Dear Sir/Madam

Attached are the comments that the New Zealand Food & Grocery Council wishes to present on the *Call for submissions – Application A1166: Reduction in minimum alcohol for Tequila.*

Yours sincerely

Katherine Rich  
**Chief Executive**



***Call for submissions – Application A1166:  
Reduction in minimum alcohol for Tequila***

**Submission by the New Zealand Food & Grocery  
Council**

**18 June 2019**

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## NEW ZEALAND FOOD & GROCERY COUNCIL

1. The New Zealand Food & Grocery Council (“NZFGC”) welcomes the opportunity to comment on the ***Call for submissions – Application A1166: Reduction in minimum alcohol for Tequila.***
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.

### The Application

3. Spirits New Zealand Inc applied to have the Australia New Zealand Food Standards Code (the Food Standards Code) amended in May 2018 to permit a reduction in the minimum alcohol by volume of Tequila from 37% to 35%. This would ensure that all products legally entitled to use the Tequila geographical indication (GI) under Mexican law could be sold in New Zealand and Australia.

### COMMENTS

4. NZFGC supports the application for an amendment that would accommodate a reduced minimum alcohol level in Tequila. This is primarily a trade issue that supports the bilateral and plurilateral recognition of GIs under agreements between countries. However, to future proof the Food Standards Code and improve the effectiveness of the resources already applied to assessing this application, we support a more enduring amendment than that drafted in the amendment to the Food Standards Code as presented in Attachment A – Draft variation to the Australia New Zealand Food Standards Code to the Call for Submissions document.
5. The subject of the Spirits New Zealand Inc application has been the immediate issue faced by Mexican Tequila. Mexican Tequila was declared to be a *Denominación de Origen* (Denomination of Origin) by the Government of Mexico under the Mexican Law of Inventions and Trademarks in 1974.
6. Tequila was internationally recognised as a GI under the World Intellectual Property Organisation in 1978. In New Zealand and Australia, while a minimum of 37% alcohol by volume serves to protect the identity of products that are traditionally considered spirits for the benefit of consumers and producers, there may well be other GI spirits that could be affected by the restriction in future. Currently products containing alcohol at less than 37% alcohol by volume can still be sold in Australia and New Zealand under Standards 2.7.1-2.7.4 but cannot be considered ‘spirits’.
7. The Food Standards Code includes a definition of geographical indication to recognise such spirits and an amendment was subsequently made to the Food Standards Code as a result of Application A409 in the early 2000s to ensure a loophole was closed that would further protect spirits subject to GIs from being diluted in third countries to a lesser alcoholic level. We are suggesting a further amendment to recognise spirits subject to GIs in future that have less than 37% alcohol by volume according to their country of origin.
8. Bilateral and plurilateral Trade Agreements are increasingly features of the global trading environment. The prospect of geographical indication provisions being included in such

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agreements is increasing. There appear to be as many national liquors as there are countries. In most instances, the alcohol level by volume is generally higher than 37% and therefore accommodated by the current Standard. However, this might not always be the case and to avoid the need to consider further applications in future, NZFGC suggests drafting a generic provision that accommodates Mexican Tequila, the subject of the current application, but also accommodates any future reduced minimum alcohol level in a spirit that is legally entitled to use the relevant geographical indication (GI) for a spirit under the law of the country of origin so that it could be sold in New Zealand and Australia.

9. NZFGC therefore supports the application for an amendment that would accommodate a reduced minimum alcohol level in Tequila. As well, we support a more generic and enduring amendment that would accommodate future reduced minimum alcohol levels in spirits that are legally entitled to use the relevant geographical indication (GI) for those spirits under the law of the country of origin so that they could be sold in New Zealand and Australia.