



11 September 2020

Project Manager
Food Standards Australia New Zealand
PO Box 10559
The Terrace
Wellington 6143
NEW ZEALAND

Email: submissions@foodstandards.gov.au

Dear Sir/Madam

Attached are the comments that the New Zealand Food & Grocery Council wishes to present on the *Call for submissions – Urgent Proposal P1054: Pure and highly concentrated caffeine products – Assessment of the approved variation.*

Yours sincerely

Katherine Rich
Chief Executive



**Call for submissions – Urgent Proposal
P1054: Pure and highly concentrated
caffeine products – *Assessment of the
approved variation***

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

11 September 2020

NEW ZEALAND FOOD & GROCERY COUNCIL

1. The New Zealand Food & Grocery Council (“NZFGC”) welcomes the opportunity to comment on the ***Call for submissions – Urgent Proposal P1054: Pure and highly concentrated caffeine products – Assessment of the approved variation.***
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.

COMMENTS

Caffeine Limits as set in Dec 2019

3. NZFGC submitted on the earlier Call for Submissions on this Urgent Proposal, the Initial Consideration Report. At that time, NZFGC made two key suggestions: that a pure and highly concentrated caffeine limit of 5g/100g (in solids and semi-solids) and 1g/100ml (in liquids), might be set at too fine a level since it might result in the removal of products from the market and that the proposed limits should be notified to the WTO.
4. Since the variation approved under urgency retained the 5g/100g and 1g/100ml limits for pure and highly concentrated caffeine in food, we acknowledge that in approving the variation unchanged, FSANZ’s initial assessment was substantiated. We therefore agree that no further change to the approved variation for pure and highly concentrated caffeine reflected in the Food Standards Code in 2019 is necessary at this time.
5. NZFGC also agrees with the exclusion of the current permissions in the Code relating to the use of caffeine as an ingredient in formulated caffeinated beverages (Standard 2.6.4) and as a food additive in cola beverages (Schedule 15) in the 2020 assessment of the approved variation.
6. NZFGC was pleased to note that the variation set under urgency was notified to the WTO in December 2019.

Addition/amendment to the current limits

7. FSANZ now considers that some sub-populations (possibly pregnant women and young children) are over-exposed to caffeine in the general food supply and that this warrants separate consideration through the raising of another proposal for this purpose. NZFGC will submit on any new proposal concerning caffeine if and when it appears. However, we note that no public consumer information campaign on safe caffeine consumption has been conducted in recent years and that such a non-regulatory measure should be favoured before further regulation is contemplated. We therefore do not support Option 3 as proposed by FSANZ which would go direct to yet another proposal on caffeine.
8. Further to this, we note that in reporting to Ministers on this urgent proposal in 2019, recommendations were made for an inter-agency consumer information campaign on safe caffeine consumption and the continued monitoring of caffeine consumption through targeted research across Australia and New Zealand to better inform public health assessments on caffeine.

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9. As we have noted, no public consumer information campaign on safe caffeine consumption has been conducted or is currently in development that we are aware of even though this is supported by industry.
 10. We would also particularly support targeted research of caffeine consumption across Australia and New Zealand as this will likely prove invaluable during the review of sports foods.

Conclusion

11. In conclusion, NZFGC supports:
 - the continuation of the existing variation for the 5g/100g and 1g/100ml limits for pure and highly concentrated caffeine in food
 - the existing permissions in the Food Standards Code relating to the use of caffeine as an ingredient in formulated caffeinated beverages (Standard 2.6.4) and as a food additive in cola type drinks (Schedule 15)
 - public consumer information campaign on safe caffeine consumption
 - targeted research of caffeine consumption across Australia and New Zealand.
12. NZFGC does not support a further proposal dealing with limits to caffeine in food until after the conduct of a concerted public consumer information campaign on safe caffeine consumption across Australia and New Zealand.
13. At that time, the impact of such a campaign could be assessed for its effectiveness in protecting sub-populations beyond the protections already in place such as labelling and warnings.