

Response ID [REDACTED]

Submitted to Public Consultation - Review of the Food Standards Australia New Zealand Act 1991 - Impact Analysis
Submitted on 2024-04-04 17:51:21

Introduction

Have you read the Impact Analysis?

Yes

Demographics

What is your full name?

Full name:
Holly Piontek Walker

Are you answering on behalf of an organisation?

Yes

What is the name of your organisation?

Organisation name::
Diabetes Victoria

Which sector do you represent?

Consumer Organisation

Other: :

What country are you responding from?

Australia

Other: :

If we require further information in relation to this submission, can we contact you?

Yes

What is your email address?

Email address::
[REDACTED]

Section 3 - The problems to solve

Section 3 - The problems to solve (Methodology)

What are the issues with the current methodology? How should it be improved? Please provide justification.

Free text box, no character limit:

It is good to see the Impact analysis has recognised the need to strengthen the emphasis on FSANZ's role in long-term health and preventable diet-related disease. However, we would argue that the problem is not only one of stakeholder confusion, but rather the limited mechanisms to ensure long term health issues are actually adequately considered. Incorporating a definition of public health in the Act will be a positive step but more is required. We support the concept of a Public Health Test (as developed by The George Institute for Global Health) being incorporated into the Act.

Are there other methodologies or evidence that the Impact Analysis should consider?

Free text box, no character limit:

It is unclear from the impact analysis why sustainability was excluded by the Food Ministers Meeting (page 82). Sustainability should be a key concept considered in this process to modernise the legislation. The Act should include responsibility for food systems security and their vulnerability to climate change (as well as other food shocks such as experienced with COVID-19).

Section 3 - The problems to solve (Ratings)

Are the ratings assigned to each of the sub-problems and ultimately the problem appropriate?

No

Which rating(s) do you believe is inappropriately rated? What would be a fair rating for the problem? Please provide justification. (Free text)

Free text box, no character limit:

The sub-problems that are already having the largest impact on the health and wellbeing of Australians and New Zealanders should receive the highest possible impact ratings these are:

Policy Problem 1, sub-problem 1: Unclear definitions have created confusion about how FSANZ should consider short-and long-term risks to health when developing food regulatory measures;

Policy Problem 2, sub-problem 2: Resourcing constraints have effectively preferred piecemeal changes to food standards over holistic reviews

Section 5 - Options for reform

Component 2.1

Component 2.1.1

Would amending Section 3 and 18 of the Act to include a definition of public health and safety reduce confusion about how FSANZ considers short and long-term risks to health when developing food standards?

Yes

Additional comments (optional):

Amending s3 and s18 of the Act to include a definition of public health and safety is a positive step and will help address the issue that the Act itself should expressly include FSANZ's role in protecting against long-term risks to health, including diet-related disease, when developing food standards. This change is important but also requires further definition as to how FSANZ will consider long term risks. FSANZ's role in protecting long-term health has been set out in a Ministerial Policy Statement and confirmed by both Ministers and the FSANZ Board, as noted in the IA.

Do you anticipate that this clarification could materially impact the way that FSANZ approaches applications and proposals and the factors to which they give regard?

No

Additional comments (optional):

Including the definition will be a positive signal but will not in itself change the existing requirements for considering long-term health. We disagree that confirming FSANZ's existing role to mitigate public health risks should be considered a cost to any stakeholder (as outlined in the cost benefit analysis methodology).

What would be the impact of clarifying the definition of 'protection of public health and safety' within the Act?

Positive

Additional comments (optional):

Legislative clarity about the FSANZ role in long-term risks to health when developing food standards would be positive.

Component 2.1.2

Would revising the way FSANZ communicates its consideration of Ministerial Policy Guidance in developing food regulatory measures support greater transparency in the development of food regulatory measures?

Yes

How could the consideration of Ministerial Policy Guidance in the development of food regulatory measures be effectively communicated?

Free text box, no character limit:

This can be documented in a report and publicly available on FSANZ's website.

Component 2.1.3

Would new provisions and/or language changes in the Act better support FSANZ to recognise Indigenous culture and expertise?

Prefer not to respond / I don't know

Free text box, no character limit:

We are supportive of a greater recognition of Indigenous food expertise in the Act and defer to the expertise of Indigenous-led organisations.

What provisions or language changes could be included in the Act to promote recognition of Indigenous culture and expertise?

Prefer not to respond / I don't know

Free text box, no character limit:

Component 2.1

Are there other initiatives that should be considered in Component 2.1?

Yes

Free text box, no character limit:

We suggest that amendments are made to the Act to establish a set of considerations that FSANZ must take into account when setting priorities and when making decisions on proposals, applications, or standard reviews. The purpose of these considerations is to set clear and consistent expectations around how public health benefits and risks should be assessed in developing, reviewing, updating and adopting food standards.

The George Institute for Global Health has proposed a Public Health Test that would meet this need.

The PUBLIC HEALTH TEST

Priority setting should consider:

The burden of disease attributable to the food supply [1];
Estimated benefit of change to the food supply from the work under consideration.

Decisions should:

- a) Discourage the development of foods with low or no nutritional quality, as defined by an appropriate nutrient classification scheme;
 - b) Encourage patterns of healthy and sustainable eating, and discourage patterns of unhealthy and unsustainable eating, as defined in the Australian and New Zealand Dietary Guidelines [2];
 - c) Reduce the quantity of ingredients and substances within foods that are known risk factors for chronic disease [3];
 - d) Assess the impact on the burden of disease attributable to the food system;
 - e) Include the benefits of improved public health outcomes and the costs of inaction on public health in any cost benefit analysis;
 - f) Assess the cumulative impacts of the introduction of new foods on public health outcomes;
 - g) Reduce availability of unhealthy foods targeted at children.
-

[1] Could be measured by the incidence of diet-related disease in the population and priority populations, as well as through vulnerability assessment of priority populations to diet-related disease.

[2] noting that updates are considering sustainability of the food supply

[3] for example added sugars, sodium and fats (trans fats, saturated fats) and additives with known health risks.

Component 2.2

Component 2.2.1

Would the introduction of a risk-based framework support FSANZ to be flexible and proportionate in handling of changes to the Food Standards Code?

No

Free text box, no character limit:

The information given is too limited to support such an approach, given we cannot definitively answer this question. The IA provides very limited details about the risk-based framework.

What criterion and/or evidence should be used to form the basis of a risk framework?

Free text box, no character limit:

The proposed Public Health Test could form a core part of the risk framework.

What would be the impact of introducing a risk-based framework to guide development of food regulatory measures for you?

Prefer not to respond / I don't know

Free text box, no character limit:

Component 2.2.2

Would enabling FSANZ to accept risk assessments from international jurisdictions support FSANZ to exercise risk-based and proportionate handling of applications and proposals? How so?

No

Free text box, no character limit:

Food standards should only be harmonised with international standards where those standards meet the Public Health Test.

Would enabling (but not compelling) FSANZ to automatically recognise appropriate international standards support more risk-based and proportionate handling of applications and proposals and improve efficiency and effectiveness? How so?

No

Free text box, no character limit:

If a program of harmonisation with international standards proceeds, standards should be harmonised 'up' to international standards that represent the best outcomes for public health and consumers.

Would introducing a minimal check pathway for very low risk products help FSANZ exercise risk-based and proportionate handling of applications and proposals and improve efficiency and effectiveness?

Prefer not to respond / I don't know

Free text box, no character limit:

Would introducing principles in legislation to allow FSANZ to create other pathways to amend food standards help FSANZ exercise risk-based and proportionate handling of applications and proposals?

Prefer not to respond / I don't know

Free text box, no character limit:

What would be the impact of introducing new pathways to amend food standards for you?

Prefer not to respond / I don't know

Free text box, no character limit:

Are there other opportunities relating to new pathways to amend food standards that should be considered?

Prefer not to respond / I don't know

Free text box, no character limit:

Component 2.2.3

Would increasing opportunities for decision making arrangements to be delegated support FSANZ to be more flexible and efficient? How so?

Prefer not to respond / I don't know

Free text box, no character limit:

What factors should be considered when determining the level of risk for decision-making arrangements?

Free text box, no character limit:

We understand that the risk framework proposed under component 2.2.1 would also be used to determine which decisions could be delegated. The proposed Public Health Test (see our response to the question in relation to other initiatives under component 2.1 for more details) should be applied to assess risk. This is particularly important when determining the level of risk for decision-making arrangements.

What would be the impact of streamlining decision-making arrangements for you?

Prefer not to respond / I don't know

Free text box, no character limit:

What expertise should be considered when determining the delegation of decisions to an alternative person?

Free text box, no character limit:

Component 2.2.4

Would a one-off investment of time and resources to develop and publish a list of traditional foods or ingredients that have undergone nutritional and compositional assessments facilitate entry of traditional foods to market?

Prefer not to respond / I don't know

Free text box, no character limit:

Would the development of further guidance materials on how traditional foods can be assessed for safety facilitate entry of traditional foods to market? How so?

Prefer not to respond / I don't know

Free text box, no character limit:

Component 2.2.5

Would resourcing FSANZ to undertake more timely, holistic and regular reviews of standards allow FSANZ to be more strategic and consistent in changes to food standards?

Yes

Free text box, no character limit:

We suggest the proposed Public Health Test (see our response to the question in relation to other initiatives under component 2.1 for more details) is used to support prioritisation of reviews.

Are there other initiatives that should be considered to drive more holistic consideration of food standards?

Yes

Free text box, no character limit:

There should be clear criteria outlined for how and when standard reviews will be undertaken. It should be clearly stipulated that both vertical standards (e.g. energy drinks) and horizontal standards (e.g. sugar labelling (i.e. that it flows throughout the Food Standards Code and affects all relevant products)) can be reviewed and reviews should be undertaken to support FSANZ primary objectives as set out in s3 of the Act.

Timelines for standard reviews should be implemented. We recommend a timeframe of 3 years from "decision to prepare" to "notification to FMM" with the potential for a one-year extension to be sought from FMM in exceptional cases where gathering the necessary evidence is taking longer than usual.

Component 2.2.6

Would the use of Codes of Practice and guidelines better support the implementation of the Food Standards Code and help to address issues that do not warrant the time and resources required to develop or vary a standard?

Prefer not to respond / I don't know

Free text box, no character limit:

Can you provide an example of an issue that would have been/be better solved by a Code of Practice or guideline?

Free text box, no character limit:

How could the decision pathway for the development of a Code of Practice or guideline be incorporated into the risk framework outlined in Component 2.2.1?

Free text box, no character limit:

What would be the expected impact if Codes of Practice and guidelines were developed for industry, by industry?

Negative

Free text box, no character limit:

It is unclear how industry-led codes of practice would be effective in addressing public health risks.

Component 2.2

Are there other initiatives that should be considered in Component 2.2?

Yes

Free text box, no character limit:

We recommend a timeframe of 3 years from “decision to prepare” to “notification to FMM” with the potential for a one-year extension to be sought from FMM in exceptional cases.

Component 2.3

Component 2.3.1

Would amending the compositional requirements of the FSANZ Board increase flexibility and reflect contemporary governance processes?

Prefer not to respond / I don't know

Free text box, no character limit:

Would amending the nomination process for the FSANZ Board to be an open market process increase efficiency and support a better board skill mix?

No

Free text box, no character limit:

We recommend maintaining the number of public health positions on the board and ensuring that nominees are endorsed by core public health organisations.

Component 2.3.2

What would be the expected impact of removing the option for applications to be expedited?

Prefer not to respond / I don't know

Free text box, no character limit:

Component 2.3.3

What would be the expected impact of the implementation of an industry-wide levy?

Prefer not to respond / I don't know

Free text box, no character limit:

How could eligibility criteria for a levy be set so that it is fair, consistent and feasible to administer?

Free text box, no character limit:

What do you think could be an acceptable range for a levy rate? Please provide your response in Australian Dollars.

Free text box, no character limit:

What would be the expected impact of compulsory fees for all applications?

Prefer not to respond / I don't know

Free text box, no character limit:

Are there specific entrepreneurial activities that FSANZ should be considering charging for to build up a more sustainable funding base?

Prefer not to respond / I don't know

Free text box, no character limit:

Component 2.3.4

Would imposing a food recall coordination levy imposition contribute to a more sustainable funding base and support FSANZ to rebalance its workload priorities by addressing resourcing pressures? How so?

Prefer not to respond / I don't know

Free text box, no character limit:

How could eligibility criteria for a levy be set so that it is fair, consistent and feasible to administer?

Free text box, no character limit:

Would charging jurisdictions to add additional proposal or project work to FSANZ's workplan meaningfully support FSANZ to rebalance its workload priorities by addressing resourcing pressures? How so?

Prefer not to respond / I don't know

Free text box, no character limit:

What would be the expected impact of imposing a food recall coordination levy on jurisdictions?

Prefer not to respond / I don't know

Free text box, no character limit:

How would this need to be implemented to be successful?

Free text box, no character limit:

Would it be better to charge a levy per recall, or an annual levy?

Other

Free text box, no character limit:

Nil response

What would be the expected impact of charging jurisdictions a fee to add additional proposal work to FSANZ's workplan?

Prefer not to respond / I don't know

Free text box, no character limit:

How would this need to be implemented to be successful?

Free text box, no character limit:

Component 2.3

Are there other initiatives that should be considered in Component 2.3?

Prefer not to respond / I don't know

Free text box, no character limit:

Component 2.4

Component 2.4.1

Would establishing mechanisms to enable FSANZ and FMM to undertake periodic joint agenda setting lead to a shared vision of system priorities?

Prefer not to respond / I don't know

How would this need to be implemented to be successful?

Free text box, no character limit:

What factors should be considered as part of the joint prioritisation matrix?

Free text box, no character limit:

In what ways could FSANZ and FMM work together in a more coordinated way?

Free text box, no character limit:

Component 2.4.2

Would more routine engagement between FSANZ and the FRSC reduce duplication of effort and missed opportunities to manage risk? How so?

Prefer not to respond / I don't know

Free text box, no character limit:

What approaches could be used to improve collaboration between FSANZ, the FRSC, and the FMM?

Free text box, no character limit:

Component 2.4.3

Would FSANZ assuming a role as a database custodian for Australia meaningfully improve intelligence sharing across the regulatory system? How so?

Prefer not to respond / I don't know

Free text box, no character limit:

What types of data would be most useful for FSANZ to curate?

Free text box, no character limit:

We recommend the development of a routine and comprehensive nutrition monitoring and surveillance system in both Australia and New Zealand.

Data that should be collected and curated includes data on:

- Food supply including composition
- Sales data
- Dietary intake (consumption data)
- Nutrition related health outcomes, as they relate to broader burden of disease.

Component 2.4.4

Would establishing information sharing arrangements with international partners reduce duplication of effort and missed opportunities to manage risk?

Prefer not to respond / I don't know

Free text box, no character limit:

What should be the focus of such information sharing arrangements?

Free text box, no character limit:

Component 2.4.5

Would introducing Statements of Intent into food standards meaningfully improve consistent interpretation and enforcement of food standards? How so?

Prefer not to respond / I don't know

Free text box, no character limit:

What should a Statement of Intent include to benefit industry and enforcement agencies to understand and consistently apply food standards?

Free text box, no character limit:

Component 2.4.6

Would FSANZ being resourced to develop, update and maintain industry guidelines improve consistent interpretation and enforcement of food standards? How so?

Prefer not to respond / I don't know

Free text box, no character limit:

Would amending the Act to allow FSANZ to develop guidelines in consultation with First Nations or Māori peoples support cultural considerations being taken into account in the food standards process?

Yes

Free text box, no character limit:

Component 2.4.7

Would FSANZ collaborating with jurisdictional enforcement agencies improve inconsistent interpretation and enforcement of food standards?

Prefer not to respond / I don't know

Free text box, no character limit:

Component 2.4

Are there other initiatives that should be considered in Component 2.4?

Prefer not to respond / I don't know

Free text box, no character limit:

Section 6 - Net Benefit

Section 6 - Net Benefit (Option 1)

Are there other costs and benefits that have not yet been qualified or quantified?

Yes

Free text box, no character limit:

Short (safety) and long-term (chronic disease) benefits should be separately noted for each element of the Cost Benefit Analysis, for both consumers and governments.

Health, healthcare system and associated social and economic impacts should all be quantified clearly for both costs and benefit for both consumers and governments.

What are the growth expectations of the First Nations and Māori food sector?

Free text box, no character limit:

What are the current delay costs to industry?

Free text box, no character limit:

Do you have any additional data that would be useful in characterising the costs and benefits of current regulatory settings?

Not Answered

Free text box, no character limit:

Data and expertise are available across Australia and New Zealand to support a Cost Benefit Analysis that appropriately reflects the costs and benefits to public health, particularly amongst public health and consumer groups.

Any other comments regarding the Option 1 information in the Net Benefit section?

Not Answered

Free text box, no character limit:

Section 6 - Net Benefit (Option 2)

Are there other costs and benefits for different stakeholders that have not yet been qualified? What are they?

Yes

Free text box, no character limit:

Short (safety) and long-term (chronic disease) benefits should be separately noted for each element of the Cost Benefit Analysis, for both consumers and governments.

Health, healthcare system and associated social and economic impacts should all be quantified clearly for both costs and benefit for both consumers and governments.

Do you have any additional data that would be useful to characterising the costs and benefits of proposed initiatives?

Not Answered

Free text box, no character limit:

Data and expertise are available across Australia and New Zealand to support a Cost Benefit Analysis that appropriately reflects the costs and benefits to public health, particularly amongst public health and consumer groups.

Any other comments regarding the Option 2 information in the Net Benefit section?

Prefer not to respond / I don't know

Free text box, no character limit:

Section 8 - Best option and implementation

Section 8 - Best option and implementation (Solving policy problems)

Does the approach to assessing the degree to which an option solves a policy problem make sense? How so?

Prefer not to respond / I don't know

Free text box, no character limit:

Is the rating assigned to each of the sub-problems appropriate? If not, why?

Prefer not to respond / I don't know

Free text box, no character limit:

Section 8 - Best option and implementation (Delivery risks)

Do you think the delivery risks have been appropriately identified and categorised within the Impact Analysis?

Prefer not to respond / I don't know

Free text box, no character limit:

Are the delivery risk ratings assigned to each of the sub-problems appropriate?

Prefer not to respond / I don't know

Free text box, no character limit:

Section 9 - Evaluation of the preferred option

Are there any other factors that should be captured in a future evaluation?

Prefer not to respond / I don't know

Free text box, no character limit:

Other comments

Is there anything else you want to share with us on the Impact Analysis?

No

Free text box, no character limit:

Privacy and Confidentiality

Do you want this submission to be treated as confidential?

No.

If you want all or parts of this submission to be confidential, please state which parts and why.

Free text box, no character limit: