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Food Standards Australia New Zealand  
Boeing House  
55 Blackall Street  
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27 February 2015

**Attention:** Standards Management Officer

**RE: Submission – FSANZ Consultation Paper on Completing the Review of Microbiological Criteria, 16 January 2015 [01-15]**

The Australian Food and Grocery Council (AFGC) appreciate the opportunity to comment on the *FSANZ Consultation Paper on Completing the Review of Microbiological Criteria, 16 January 2015 [01-15]*.

The AFGC has consulted with our members and provides the following feedback to FSANZ for consideration.

## **Overall Position**

- 1 The AFGC **supports** the review of Standard 1.6.1 given there has been a significant change in approaches to food safety management and increasing knowledge on existing and emerging pathogens in the time since the microbiological limits were set.
- 2 The AFGC **does not support** the regulation of **process hygiene criteria** (applied to verify hygiene measures/control of process).
- 3 The AFGC **supports** a preventative approach to ensuring the safety of the food supply underpinned by a flexible, risk-based approach to the application of microbiological criteria.

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## Specific Comments

### The proposed response

#### Microbiological criteria

The AFGC agrees with the establishment of microbiological criteria to support decision making about a food or process. While there are mandatory microbiological standards in Standard 1.6.1 of the Australia New Zealand Food Standards Code (the Code), the AFGC consider this consultation is an opportunity to review the need for and extent of mandatory criteria going forward.

The AFGC agrees that it is important to review the existing microbiological criteria against advances in scientific understanding of food-borne pathogens and their management in the food supply.

The AFGC supports the development of guideline or advisory criteria, to provide benchmark levels against which unacceptable microbial contamination of food could be identified and remedial action initiated when limits are exceeded. Such guidelines should be preferred to mandating criteria in regulation, which are often historical and reactive. Guidelines can also be used to provide a consistent approach to interpreting microbiological analyses of food, particularly for monitoring and surveillance purposes.

The AFGC supports the establishment of hazard identification and food safety requirements in legislation, supplemented by guidance information via Codes of Practice and Guideline documents.

#### Principles for Establishment and Application of Microbiological Criteria

The AFGC supports the following principles to provide a framework for national governments to use for establishing and applying microbiological criteria for foods at any point in the food chain:

- a microbiological criterion should be appropriate to protect public health and, where appropriate, also ensure fair practices in trade;
- a microbiological criterion should be practical and feasible and established only where necessary, taking into account the intended use of the food;
- a microbiological criterion must be established only when feasible testing exists, taking into account accuracy, sensitivity, cost and time;
- the purpose of establishing and applying a microbiological criterion should be clearly articulated (e.g. food safety or process hygiene);
- the required stringency of a microbiological criterion used should be appropriate to its intended purpose (rather than on technological achievability);
- a microbiological criterion is established at a specified point in the food chain; and

- corrective actions when limits are not met will be stated (e.g. rejection of a lot or adjustment of process).

#### Process Hygiene Criteria

The AFGC does not support mandating of **process hygiene criteria** (applied to verify hygiene measures/control of process) in Standard 1.6.1 Microbiological Limits in Food. There may be specific situations where there is a need for Process Hygiene Criteria (hygiene indicator micro-organisms) to be part of the specific product standard and these should be approached on a case by case basis.

It is the view of the AFGC that incorporation of Process Hygiene Criteria (hygiene indicator micro-organisms) into Standard 1.6.1 Microbiological Limits in Food is an undesirable approach and would:

- escalate the potential for arbitrary and artificial technical barriers to trade for reasons that are ultimately unsound;
- misdirect the proper course of investigations when Process Hygiene Criteria (hygiene indicator micro-organisms) exceed nominal levels – this misdirection can have serious implications;
- paradoxically, it will limit the assistance that FSANZ can provide to prevent food safety problems – a regulatory approach will severely limit the advice and guidance FSANZ and other regulatory agencies can provide to industry. It is likely that documents such as the Guidelines for the microbiological examination of ready - to - eat foods (December 2001) would be less useful and extensive if they were to be published as a Regulatory Standard.

If hygiene criteria is set in regulation, this may result in artificial trade barriers. This was flagged in the work of CCFICS and was an issue in the formulation of the TBT standards by WTO. It is interesting to note that the EU Dairy Standards have been reformulated to only include Listeria and salmonella for Dairy Products for this very reason.

By its very nature a regulatory limit interferes with the greater flexibility provided by Guidelines and Codes of Practice. The AFGC believe the approach of Guidelines and Codes of Practice strikes the proper balance in this area – these guidance documents are tight enough to require cause to be shown but not so restrictive as to inhibit appropriate actions to be carried out.

The AFGC **does not support** the inclusion in regulation of the “obligation of means” (i.e. prescribed corrective actions) on the basis that this removes other possible solutions that could better meet the particular situation or address identified issues.

The AFGC would support a general requirement (not prescriptive) for increased monitoring of the relevant processing environment and/or production lines, using the most appropriate microbial indicators, in the case of repeated failure of hygiene indicators.



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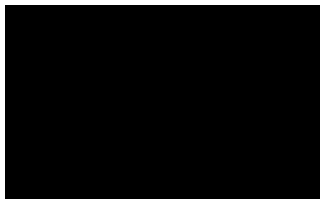
In general the stipulation of corrective actions in law is generally not a good practice. Similarly the principle of mandating both the obligation of means and the obligation of results breaks uncertain ground – it presupposes there is a case to answer before there is even a case.

#### Prioritisation of work

With regards to prioritisation, AFGC supports criteria for infant formula products being progressed first. It would make sense to follow this up with work on the dairy category, given similarities and the significant risk assessment and other work completed during the development of the primary production and processing standard, and recent work on raw milk products.

Please feel free to contact Fiona Fleming (Advisor, Policy and Regulation) who is our lead with respect to this matter.

Sincerely



Director, Legal and Regulatory

