

DAIRY COMPANIES ASSOCIATION OF NEW ZEALAND
SUBMISSION TO: Food Standards Australia New Zealand (FSANZ)
ON
Second Call for Submissions: – Application A1155
2'-FL and LNnT in infant formula and other products

2nd September 2019

Summary

The Dairy Companies Association of New Zealand (DCANZ) appreciates the opportunity to make a submission on Application A1155: 2'-FL and LNnT in infant formula and other products in light of its relevance and importance to our member companies. DCANZ member companies collectively account for more than 98% of the milk processed in New Zealand and the vast majority of New Zealand's dairy exports.

DCANZ are particularly concerned that the proposal, as currently written, includes inconsistencies with the existing provisions of Food Standards and/or with current governmental policies. We are extremely concerned at both these specific instances and the precedents which may be set in other areas by such inconsistencies. Examples of these inconsistencies include:

- a. The provision for additional prohibited labelling representations (e.g. 'human milk identical oligosaccharide' or 'HiMO') which is not aligned with the choice to allow generic ingredient labelling; and
- b. The apparent lack of consistency in proposed identity and purity limits (e.g. microbiological limits), which would sit within Schedule 3, to the current Food Standards Code provisions.

The contact for this submission is:

Regulatory Manager
Dairy Companies Association of New Zealand

Detailed comments:

Prohibited Representations

1. We submit that no additional prohibited representations regarding use of the terms 'human milk oligosaccharide', 'human milk identical oligosaccharide' and the abbreviations, 'HMO', 'HiMO' (or similar words or abbreviations) should be introduced for infant formula products and formulated supplementary foods for young children (FSFYC). DCANZ does not support the proposed prohibition

of such generic terms, which have been used widely and in scientific literature for many years. This is because, in our opinion, such additional prohibitions:

- a. Are not necessary given the existing protections in the Food Standards Code (Standard 2.9.1—24), and also with other consumer-related legislative provisions (e.g. Fair Trading Act 1987 and the Australian Consumer Laws in the Competition and Consumer Act 2010) intended to protect consumers;
- b. Pre-empt Codex decisions on additional labelling provisions for products intended for the twelve month to 36 month age group which are currently being discussed as part of the revision of the Follow-up Formula Standard;
- c. Extended to FSFYC would set policy outside statutory policy development process as set out in the FSANZ Act 1991; and
- d. Have the very real potential to adversely impact trade (it is our understanding that these terms have not been prohibited in other markets where these ingredients are already in use) and to stifle innovation.

Identity and Purity Parameters Inconsistencies

2. DCANZ submits that a further review of the proposed identity and purity criteria be conducted to ensure that these:
 - a. are consistent with related requirements contained in other areas of the Food Standards Code (e.g. microbiological criteria); and
 - b. are aligned with **current** EU regulations in this area.