

16th February 2015

Review of Mutual Recognition Schemes
Productivity Commission
Locked Bag 2, Collins St. East,
Melbourne, VIC 8003 Australia

To whom it may concern:

Mondelez has previously provided comment on the TTMRA (previously as Cadbury and Kraft Foods), specifically on issues that relate to the Australia and New Zealand Food Standards Code, Weights & Measures regulations, and the administration of Therapeutic goods.

The following issues are those which affect us as a manufacturer and distributor of food products across Australia and New Zealand. We have seen little progress since the last review in 2008 and our concern is that the overall time taken to resolve issues is far greater than it should be.

While we acknowledge that both Australia and New Zealand are individual sovereign identities we would hope that the TTMRA should serve as the mechanism to create common regulations and standards and not just serve to mutually recognise each others regulations.

Weights & Measures regulations

While both Australia and New Zealand now both operate an AQS (Average Quantity System) for weights and measures, Australia, on the other hand, has only recently adopted AQS despite an undertaking as a signatory to the OIML some 10 years beforehand that we would adopt recommendations, such as AQS.

However, Australia still has the option of both AQS and the previous "Minimum Contents" regulations. Where an Australian manufacturer operates to AQS there is a requirement to include an "e" mark adjacent to the weight declaration to identify to any Weights & Measures inspectors which system has been used. Products manufactured to the "Minimum Contents" principle do not have any mark adjacent to the weight declaration.

Note that in New Zealand there is no requirement to include the "e" mark adjacent to the weight declaration as AQS is the only system permitted. Products manufactured in New Zealand under AQS, and sold in Australia, are not required to display the "e" mark and therefore the weight declaration looks the same as products manufactured in Australia to "Minimum Content" regulations. It is further complicated by products manufactured in New Zealand not being required to display the Country of Origin

An option would be to have AQS as the only option under Weights & Measures legislation in Australia and to remove the requirement for the "e" mark.

Note that during the discussions in the lead up to implementation of AQS many in the Australian Industry were looking for the Australian Government to adopt the same AQS system as New Zealand, citing that if it works in New Zealand why create something different. While the differences are minimal we do not have the exact same AQS system.

Dietary Supplements

New Zealand currently has a Dietary Supplements Regulations for items that sit somewhere between a Food product and a Medicated product.

New Zealand manufacturers are able to manufacture Dietary Supplements and export them to Australia even though these products cannot be manufactured in Australia.

It is also possible to import these products into New Zealand (from elsewhere in the world) and once that have been cleared by New Zealand Customs they can be transhipped to Australia. We are aware of this occurring recently where a fortified Chewing Gum product, manufactured by Cenovis in the USA, was imported into New Zealand under the Dietary Supplements regulations and subsequently transhipped to Australia. Note that a fortified Chewing Gum cannot be manufactured in Australia according to the Food Standards Code.

We should note that there have been several attempts to abolish the New Zealand Dietary Supplements Regulations and to absorb these items into either the Food Standards Code (as a Food) or into MedSafe (as a Therapeutic Good). We note that the New Zealand Government has not been proactive in attempts to abolish the Dietary Supplements Regulations. Previously they had offered suggestions as to how Food type products can be absorbed into the Food Standards Code over a transition period but there has been no apparent action in the past 5-6 years.

We would support a proposal that either abolishes the New Zealand Dietary Supplements Regulations or permits the manufacture of Dietary Supplement products in Australia, external to the Therapeutic Goods Administration.

Other Food Standards Issues

There are other areas of the Food Standards Code which New Zealand has still opted not to take up. However, as far as Mondelez is aware there has not been a problem as far as the TTMRA is concerned. However, Mondelez does not have a significant involvement in those parts of the Code.

The intent of the Food Standards Code is to have a common shared set of Food Standards and currently this does not exist while either country chooses which parts of the Code they want to participate in. While we acknowledge that New Zealand, as a sovereign identity, has the right to adopt legislation as it sees fit the notion of a "joint" Food Standards Code has yet to be realised.

Therapeutic Goods

It is very unfortunate that the joint scheme for Therapeutic Goods across Australia and New Zealand has not eventuated.

We would support the resumption of discussions on this issue with the aim of including Therapeutic Goods under the TTMRA.

Common Labels / Country of Origin declaration

Mondelez manufactures similar products in Australia and New Zealand and interchanges a significant number of products between the 2 countries as part of ongoing efficiency measures. Currently we have a separate label for the same product manufactured in both countries because there is a requirement to include a Country of Origin declaration, according to Standard 1.2.11 of the joint Food Standards Code.

Note that Country of Origin labelling is not mandatory on New Zealand manufactured products, a decision made by the New Zealand Government during the introduction of Country of Origin

labelling. However, all Mondelez products manufactured in New Zealand do carry a Country of Origin declaration.

Our recommendation would be to permit a common label for products manufactured in either country to facilitate greater efficiency. Note that products manufactured in the EU member countries are permitted to carry a "Made in the EU" declaration, a statement that is currently not permitted on products imported into Australia or New Zealand as the Food Standards Code specifically requires a **Country** of Origin declaration to be made and "Made in the EU" does not specify an actual country.

All other mandatory labelling requirements are the same so a declaration such as "Made in Australia and/or New Zealand" would permit a single label to be possible for the same product manufactured in both countries.

In the case of Mondelez products the company name and Consumer contact details for both countries are already included on the label. Product traceability should not be an issue.

We would not see this applying to other Mutual Recognition schemes as our mandatory labelling requirements are generally not compatible with other countries

We trust that our comments on the above issues will assist the Commission and we would welcome any opportunity to discuss them.

Yours faithfully

Neil Smith
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