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Regulation Benchmarking Study: Food Safety
Productivity Commission
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REGULATION BENCHMARKING STUDY: FOOD SAFETY DRAFT RESEARCH REPORT

Coles welcomes the opportunity to provide comment on the above Draft Report.

Coles understands that the Productivity Commission was asked by COAG to undertake this Study to identify and remove unnecessary compliances costs, enhance regulatory consistency and reduce duplication and overlap in food safety regulation across Australia. Coles fully supports these objectives.

As a national retailer with more than 750 stores across Australia that range up to 26,000 products, Coles takes its food safety obligations very seriously and supports a move towards a more uniform national approach to food safety regulation in Australia and between Australia and New Zealand.

Coles supports effective food safety regulation that maintains food safety standards, allows for industry innovation and builds consumer confidence in the food we sell. However, we believe food safety regulation should be directed towards the effective control of food safety hazards and that a risk based approach should be adopted where possible.

Coles is disappointed that the Draft Report does not make recommendations regarding improvement to food safety regulation and enforcement, but understands the Draft Report will be used to inform Governments about those areas of food safety regulation where there are differences in compliance burdens and the areas that may benefit from further reform.

Please find below some comments for your further consideration.

Inconsistent interpretation

Whilst progress has been made to improve the effectiveness and consistency of implementation of food regulation through the establishment of the Trans Tasman Mutual Recognition Arrangement, Food Regulation Agreement, Food Regulation Standing Committee (FRSC) and the Implementation Sub-Committee (ISC) as well as through other Federal, State and Local Government commitments, inconsistent interpretation of food safety regulation remains a key issue for our business.

In our experience, it is not uncommon for food safety regulation to be interpreted inconsistently by different Regulatory Authorities (e.g. State Health Departments, Local Government etc) and between individuals within these Regulatory Authorities (e.g. individual Health Officers, Inspectors, Compliance Managers etc). There also seems to be inconsistency in terms of how many visits/inspections each store receives (e.g. some annual and bi annual store visits/inspections).

In the past, FSANZ has provided Interpretation Guides for various Food Standard requirements, which have been beneficial in assisting food businesses to determine whether they are on track in interpreting the true intent of a particular Standard. However, Guidelines are no longer available for all the core Food Standards (e.g. Standard 3.2.2 Food Safety Practices and General Requirements).

Coles therefore recommends that where appropriate FSANZ fast track development of Interpretation Guides in consultation with industry.

Enforcement Tool kits and compliance strategies

More recently there has been a move to Name & Shame food businesses for breaching food safety regulation via a public website/register or via media. Coles' concern with this type of blunt approach is that it may not necessarily reflect the severity of the alleged breach or provide qualitative data around the circumstances in which the breach occurred. It is therefore important that there be consistency and fairness in how this information is managed and transparency around which offences get entered and those that don't.

It is also important that there be a common approach adopted in terms of:

- the length of time a business/person is listed on the site.
- the means for appeal
- process for having the name removed once remedial action has been taken and/or improvement has occurred, or once an appeal has been won.

Food Safety Supervisor requirements

Coles notes that there are different Food Safety Supervisor (FSS) requirements across the jurisdictions. In NSW for example, new laws were recently passed requiring a Food Safety Supervisor to be trained and available on site. The new FSS laws even apply to low risk businesses that do not prepare/handle food (other than to heat up pies, sausage rolls etc), which is an onerous and expensive impost on these food businesses.

Coles would prefer one national standard for FSS, which should be developed in consultation with Service Skills Australia (national training body) and industry. The standard/requirement should cover all industry sectors (i.e. retail, wholesale,

hospitality etc), and ensure flexibility to meet the needs of small and large business whilst ensuring the intended food safety outcomes are achieved.

The standard/requirement should include consistency in terms of:

- training and accreditation requirements;
- notification requirements; and
- reasonable hours FSS is expected to be on site (which should be flexible and vary between single management small businesses to multi tiered/management large scale operations).

Fees

There are significant differences in the fees and application processes for food businesses between State/Territories and within municipalities. For example, Brisbane City Council requires each business to license Food Safety Supervisors for each store and every time they change or a new team member starts this costs \$66.00 and requires us to complete four pages of documents. In addition, food businesses with multiple premises within a municipality must process each individual site separately, which is an administrative burden.

In addition, there is no consistency in charging for inspections. A number of Councils for example may charge for initial inspections, whilst others may only charge for follow-ups after an identified breach.

In order to overcome the problem of different fees being charged for food business registration, inspection and auditing, Coles recommends a national risk based approach be adopted (i.e. the higher the food safety risk the higher the fee or level of regulatory surveillance). Risk assessments could be based on factors such as the size (and organizational support/processes), length of operation, history of compliance etc.

Another key issue is that some States have co-existing food regulation that results in conflicts and/or duplication. In QLD for example, Health and Safe food require our food business to complete two registrations and two annual inspections per store, which is costly and an administrative burden on our business. We understand the reason for this is because Safe foods cannot issue a certificate of occupancy (only QLD Health), but they require us to license premise prior to opening.

In addition, in QLD, annual safe food auditing of low risk premises are still being undertaken by contracted third party auditor at cost of \$225 and there is no allowance or option for business to contract out to market for 3rd party auditing in QLD.

In NSW for example, we still have to 'notify' the Food Authority of each stores existence and individual Councils require us to register with them also leading to duplication.

Coles therefore recommends the variance between the States/Territories in terms of licensing, fees, penalties etc be reviewed and a more reasonable and consistent approach adopted. There is also a significant opportunity to simplify and or centralize the registration/notification process in some jurisdictions.

In terms of Food Safety Programs, each State/Territory and Regulatory Authority seem to have a different expectation and application of the Standard (some don't apply it all). If FSANZ still deem a Standard to be valid and relevant, there needs to be consideration and review into the consistency in application of the Standard to minimise the impact and burden on business.

Conclusion

Thank you again for the opportunity to provide our views on the Draft Report.

Coles has identified a number of opportunities to improve food safety regulation and enforcement in Australia and encourages all levels of Government to work together to improve consistency and reduce the regulatory compliance burden on business.

Should you wish to discuss please contact me on (03) 9829 3841 or via email Canice.guinane@coles.com.au.

Yours faithfully

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