
Submission to:

House Standing Committee on Economics

In response to:

Inquiry into the Food Standards Amendment (Truth in Labelling - Palm Oil) Bill 2011

Dr Geoff Drewer
Snr. Sci. Regulatory & Standards

Regulatory & Standards Department
PO Box 40
Cooranbong, NSW 2265

Phone: (02) 4980 2777
Fax: (02) 4977 2490
E-mail: sdireg@sanitarium.com.au

Issue No: 1.0

Issue Date: 15.08.2011

*"Sharing health and hope
for a better life"*

Table of Contents

1. Executive Summary 3

2. Introduction 3

2.1 Preamble3

2.2 Comments on the proposal4

2.3 Critical Assumptions and Constraints.....5

2.4 Key Issues.....5

3. Conclusion 6

4. References..... 6

1. Executive Summary

I write on behalf of Sanitarium Health & Wellbeing Company, a 100% Australian owned and operated food company. We wish to advise our opposition to the proposed bill before the Senate, which would enforce labelling of the presence of palm oil in food products.

Our main concern is that the proposal creates a precedent, in moving the food regulatory process from the regulator to the legislature, in this particular case directly impacting ANZFSC Standard 1.2.4 Labelling of Ingredients, for which there is a standard process of review.

We do not support the management of food labelling issues outside of a best practice regulatory review process, especially when acting retrospectively on foods and food components that have been in regular and safe use for many years.

Nor do we think it wise to act in the absence of review and assent from the state and territory jurisdictions that would need to enforce this legislation, when the primary focus of the local inspectorates should be food safety. If this bill is passed, the fundamental service of enforcement agencies would be tasked with yet another non- food safety issue.

Furthermore, products made in New Zealand would be exempt from this requirement, while being able to be imported and sold here under the Trans-Tasman mutual recognition agreement, creating a situation where some products would be labelled and some would not, whilst being sold in the same market.

2. Introduction

2.1 *Preamble*

The Sanitarium Health Food Company began in 1898 with the vision to help people 'learn to stay well'. Our mission is **to 'inspire and resource our community to experience happy, healthy lives'**. We have been committed to this philosophy for over 100 years and it is the reason we exist today. Sanitarium also believes that good business is based on trust, respect and community involvement.

Sanitarium has a strong history of educating the community about healthy eating and healthy lifestyles. All of Sanitarium's activities have twin goals in mind - to provide healthy foods that actively improve our community's health and well-being, and to offer easy-to-understand nutrition information and practical health advice.

Sanitarium Australia and Sanitarium New Zealand is owned and operated by Australian Health & Nutrition Association Limited and New Zealand Health Association respectively. We produce over 150 products and employ approximately 1700 people in our manufacturing and distribution sites throughout Australia and New Zealand.

Sanitarium welcomes the opportunity to comment on the proposed changes which would affect the Australia & New Zealand Food Standards Code (ANZFSC) and Competition and Consumer Act 2010 (CCA). We believe we can provide a unique perspective and give valuable suggestions into the food policy and standards development in Australia and New Zealand.

Information contained in this submission has been drawn from the experiences of Sanitarium, and contains no commercial-in-confidence material – unless otherwise highlighted.

2.2 *Comments on the proposal*

For many years Australia has pursued a safe and reliable food supply underpinned by a desire for regulatory best practice encouraged through forums such as the Council of Australian Governments (COAG). Good legislation has been achieved by suitable policy development from Australian and New Zealand Food Regulation Ministerial Council, The Food Regulation Standing Committee and various working groups. This then sets a suitable framework for Food Standards Australia New Zealand (FSANZ) to propose changes to the ANZFSC via fair processes in accordance with the FSANZ Act. These fair processes include due consideration of international agreements with bodies such as the WTO, APEC and Codex

The Truth in Labelling - Palm Oil Bill 2011 (TILPO Bill) is a move towards political constituencies determining the food supply, subverting the usual checks and balances including:

- several rounds of public consultation,
- robust examination of the regulatory impact and review by the state and territory governments that will have to enforce the legislation.
- Replacement of widespread stakeholder input into industry specific issues with political expediency. The issue should be put to the normal regulatory process for resolution, where all aspects can be considered in fairness and voted by all states and territories.

Sanitarium has participated in standard setting and policy development consultation processes in the past, and generally observed fair and equitable outcomes from this process. Therefore Sanitarium is very concerned to see proposed legislation that would force FSANZ to set a standard without due process. Therefore while we welcome the

opportunity to comment on this bill, if it is passed it will set in motion a change to the ANZFSC that will be implemented without due process.

Such changes to the ANZFSC will almost certainly be flawed, and will certainly be against Australia's best interests, especially with respect to fair and equitable trade with New Zealand. All this in the context of the Senate Committee charged with reviewing this bill having already recommended that the bill not be passed.

2.3 *Critical Assumptions and Constraints*

The stated purpose of the bill is "...to ensure that consumers have clear, accurate information about the inclusion of palm oil in goods." However in an open and democratic society it is reasonable to question why this information is critically necessary for consumers. It would appear that the underlying reasons given for the need for specific palm oil labelling revolve around:

- Health concerns due to the level of saturated fat in the oil
- Environmental concerns due to deforestation especially illegal deforestation in certain countries.

In both cases these concerns are already been addressed by either information already on the label (saturated fat content), or by industry led voluntary labelling and/or sustainable procurement initiatives.

How these issues can be dealt with without the TILPO Bill is detailed below.

2.4 *Key Issues*

Whilst palm oil is known to contain around 50% saturated fats, its health impact in the final food is driven by the amount present and the context in which the food may be eaten. It is important to note that palm oil is just one of many potential sources of saturated fats. To ensure consumers have information about nutrition of the overall product, the Nutrition Information Panel (NIP) provides the content of key nutrients including saturated fats. Therefore the consumer is able to make an informed choice as to the nutritional quality of the food via the NIP. The TILPO Bill would single out this oil, even if it were added at nutritionally insignificant levels. A consumer driven to avoid palm for 'health' reasons may end up choosing products higher in saturated fat than one containing a small amount of palm oil. Not all saturated fats are the functional equivalent of palm oil, and for that reason are not necessarily nutritionally equivalent at the "functional" level of addition.

Sanitarium and many other manufacturers have already responded to the issue of palm oil by sourcing sustainable palm oil and joining the Roundtable for Sustainable Palm oil

(RSPO). We believe that RSPO membership will represent a high proportion of the volume of palm oil being sourced in Australia. Furthermore Australian consumption represents less than 0.3 per cent of the global palm oil supply. Therefore prescriptive palm oil labeling legislation is unlikely to have any positive impact on the sustainability of the global palm oil supply.

Finally, the Bill appears to establish a regulatory requirement that is practically unenforceable. The fatty acids commonly obtained from palm oil (such as lauric acid or stearic acid) are some of the most widely distributed fatty acids in foodsⁱ. Laboratory analysis of products may detect the presence of these derivatives, but would not be able to identify whether they are sourced from Palm Oil or obtained from other materials. Unscrupulous manufacturers or importers could unfairly compete against law abiding companies safe in the knowledge that there is no real test that can conclusively establish the source of fat in foods.

3. Conclusion

As a company we are proactively removing palm oil from our products, being aware of community sentiments. We are in agreement with those sentiments but see the present proposal as an unwelcome precedent, effectively reducing the strength of our voice in relation to issues that directly concern us.

In particular this bill; attempts to circumvent rigorous expert review, is unnecessary from a nutritional point of view, insignificant in its impact on palm oil production globally whilst adding little impetus to existing efforts in growing regions to ensure palm oil is produced sustainably.

4. References

ⁱ Beare-Rogers, J.; Dieffenbacher, A.; Holm, J.V. (2001). "[Lexicon of lipid nutrition \(IUPAC Technical Report\)](http://iupac.org/publications/pac/73/4/0685/)". *Pure and Applied Chemistry* **73** (4): 685–744. doi:[10.1351/pac200173040685](https://doi.org/10.1351/pac200173040685). <http://iupac.org/publications/pac/73/4/0685/>.