



Australian Government

AUSTRALIAN GOVERNMENT RESPONSE

Australian Government response to the report of the Senate Rural
and Regional Affairs and Transport Committee:

Regulatory approaches to ensure the safety of pet food

Acknowledgements

The Australian Government thanks the many individuals and organisations who contributed to the inquiry. The government particularly thanks those contributors who shared personal experiences concerning their pets.

Introduction

Over the past decade there has been a series of incidents related to pet food. Most notably the spike in cases of megaesophagus in dogs that were linked to a brand of dry dog food. Over 100 dogs were affected by this irreversible and fatal disease.

The public concern caused by these pet health incidents led to two actions by parliamentarians.

- In May 2018, the then Minister for Agriculture and Water Resources, the Hon David Littleproud MP, sought the support of the state and territory ministers for a review of the regulation of pet food in Australia. This proposal was supported by all ministers and the pet food working group was established. This working group will report against its terms of reference to the Agriculture Senior Officials Committee and Agriculture Ministers' Forum in the first half of 2021.
- On 20 June 2018, a Senate inquiry into regulatory approaches to ensure the safety of pet food was announced. The Senate committee released its recommendations on 16 October 2018.

The pet food working group is chaired and managed by the Department of Agriculture, Water and the Environment. Members of the group include representatives from:

- Department of Agriculture, Water and the Environment
- Department of Health
- Food Standards Australia New Zealand (FSANZ)
- Pet Food Industry Association of Australia (PFIAA)
- Australian Veterinary Association
- RSPCA
- Safe Food Production Queensland
- New South Wales Department of Primary Industries
- Animal Health Committee
- Australian Competition and Consumer Commission (ACCC)
- Department of Industry, Science, Energy and Resources.

The terms of reference of the working group are to review the safety and regulation of pet food in Australia and consider the Senate inquiry report and recommendations.

The Australian Government welcomes the Senate Rural and Regional Affairs and Transport References committee inquiry report on regulatory approaches to ensure the safety of pet food.

The Australian Government response follows, addressing each of the Senate Committee's seven recommendations.

Recommendation 1

The committee recommends that the Australian Standard for the Manufacturing and Marketing of Pet Food (AS5812:2017) be made publicly available on the Department of Agriculture and Water Resources' website for download and distribution.

The government agrees with this recommendation.

The Australian Standard for the Manufacturing and Marketing of Pet Food (AS5812:2017) is a technical document which sets out specific requirements for the production and supply of pet food, including the sourcing of ingredients, processing, heat treatment, labelling, storage and recall for imported and locally produced complete pet foods, pet meat and treats for cats and dogs.

Standards Australia invests significant resources and time in the development and/or revision of standards. Its costs are recovered by charging a fee for the relevant standard.

The Department of Agriculture, Water and the Environment will work with Standards Australia to make the standard publicly available for download for a trial period and assess if this addresses transparency concerns and improves compliance and accountability.

Downloads of AS5812:2017 in the past two years averaged 48 copies per year. The department will sponsor access to AS5812:2017 up to a limit of 100 copies per year for a trial period of two years. This will cost \$9535 per year. Access must be through Standards Australia therefore the department will publish a link to the Standards Australia website to allow downloads with information about the standard and how to access it on the department's website.

Recommendation 2

The committee recommends that, as part of its review into the safety and regulation of pet food, the working group focus on mechanisms to mandate pet food standards and labelling requirements in Australia. In particular, it should give serious consideration to amending the Food Standards Australia New Zealand Act 1991 to expand the responsibilities of Food Standards Australia New Zealand (FSANZ) to include pet food standards and labelling requirements.

The committee further recommends that the working group draft a national pet food manufacturing and safety policy framework for the consideration and endorsement of an appropriate forum such as the Australia and New Zealand Ministerial Forum on Food Regulation.

To inform its deliberations, the committee recommends that the working group take into account the evidence provided to this inquiry.

The government agrees in part with these recommendations.

The government recognises the value of AS5812:2017 and its labelling requirements. Currently AS5812:2017 is voluntary. To make it mandatory would require legislative change or development of new legislation along with the establishment of a regulatory body that would be responsible for enforcement and non-compliance. Responsibility for developing, legislating and enforcing the pet food standard if it was made mandatory rests with state and territory governments. The Commonwealth does not have relevant powers covering pet food.

Expanding the responsibilities of FSANZ to include the regulation of pet food would require significant resources and establishment of expertise which currently does not exist within the agency. A review of the Food Standards Australia New Zealand Act 1991 and the associated operations and responsibilities of FSANZ began in July 2020. The regulation of pet food is out of scope for this review.

Options for a national pet food manufacturing and safety policy framework will be presented to Agriculture Senior Officials' Committee and the Agriculture Ministers' Forum for consideration.

The terms of reference of the pet food working group includes consideration of the evidence provided to the senate inquiry and its recommendations.

Recommendation 3

The committee recommends that the independent review working group identify specific measures to improve the efficacy of the Australian Standard for the Manufacturing and Marketing of Pet Food (AS5812:2017). These measures should include specific requirements with regard to feeding trials and other testing prior to pet food sale as well as mandatory labelling standards that detail all ingredients including preservatives, additives, and which disclose heat, irradiation or other treatments to the product.

The government agrees with this recommendation.

The government supports the review and update of AS5812:2017 to help strengthen it and support consumer confidence in the product they are purchasing for their pet.

Following the release of the pet food working group report the PFIAA intends to begin the formal process of reviewing and updating AS5812:2017. This will involve Standards Australia establishing a technical review committee comprising a range of experts in the field.

Areas of improvement of AS5812:2017 identified by the pet food working group will be referred, as well as the Senate committee recommendations, to the Standards Australia technical review committee for their consideration.

The government notes that AS5812:2017 currently contains specific recommendations regarding feeding trials and other testing prior to sale as well as labelling requirements regarding preservatives, additives and treatments such as irradiation.

Recommendation 4

The committee recommends that the Australian Competition and Consumer Commission review the process by which the Australian Standard for the Manufacturing and Marketing of Pet Food (AS5812:2017) could become a mandatory standard under Australian Consumer Law and make public its review finding and any recommendations.

The government does not agree with this recommendation.

The ACCC has reviewed the process required to make AS5812:2017 mandatory under the Australian Consumer Law (ACL) and determined that the ACL is not the appropriate framework to achieve this objective. This recommendation falls outside of the ACCC's jurisdiction as the ACL applies to 'persons' and does not cover the protection of non-humans (i.e. pets).

Introduction of a mandatory safety standard for pet food safety is not consistent with the underlying principles of the ACL and regulatory activities of the ACCC which focuses on minimising the risk unsafe goods pose to consumers, including injury, illness or death caused by consumer products.

The ACL provides for two forms of mandatory safety standards for consumer goods or product-related services, where the minister may:

- make a safety standard that sets out requirements that are reasonably necessary to prevent or reduce the risk of injury to a person (s 104 of the ACL) or
- declare a safety standard approved by Standards Australia or a prescribed association (s105 of the ACL).

The ACCC is of the view that the Commonwealth minister's powers to make and declare mandatory safety standards under these sections of the ACL could not be used to declare AS5812:2017 a mandatory standard on the basis of a risk of injury to pets. Both sections, within the broader context of the product safety regime and taking into account principles of statutory interpretation, relate to consumer safety and preventing the risk of injury to natural persons and would not extend to pets.

In addition, mandatory information standards can be implemented under the ACL to provide important information to consumers about goods and services but only regulate the minimum disclosure requirements and the type of information that is provided. This means that information standards cannot be used to mandate specific requirements about the level of safety, minimum standards or methods of manufacture and processing to ensure the safety of pet food.

Recommendation 5

The committee recommends that the Australian Veterinary Association, in cooperation with the Australian Competition and Consumer Commission explore measures to improve data capture in the PetFAST system.

The government agrees in part with this recommendation.

The government supports the improvement of data capture and enhancement of the PetFAST system. This would ensure that the PetFAST system could continue to investigate and report adverse events associated with pet food. Since August 2018 the details of reports submitted to PetFAST have been captured and stored. During the period August 2018 to October 2020 a total of 74 PetFAST reports were submitted, 22 regarding complete pet food and 52 relating to pet treats.

The government does not agree that it is the responsibility of the ACCC to explore ways for the Australian Veterinary Association and PFIAA to improve data capture and analysis in the PetFAST system. Specialist database administration and development skills are required to explore and implement measures to improve data capture in the PetFAST system. The ACCC does not possess technical knowledge on the capture and analysis of data about pet food adverse events.

Recommendation 6

The committee recommends that the Australian Competition and Consumer Commission establish a system for consumer reporting on its Product Safety Australia website, to enable members of the public to lodge complaints and concerns associated with pet food.

The government does not agree with this recommendation .

The government supports the development of a consumer reporting system however it does not agree that the Product Safety Australia website is the correct site for such a system.

The ACCC receives web based reports from consumers via two mechanisms:

- the Product Safety Australia website accepts report about a range of unsafe goods; and
- the ACCC website accepts reports about general consumer issues, such as in relation to consumer guarantee rights.

On this basis, the establishment of a secondary or specific system for consumer reporting in regard to pet food on the Product Safety Australia or the ACCC website is not supported.

The ACCC is not the appropriate body to receive pet food safety complaints or pursue any regulatory intervention given the ACL's product safety framework does not apply to pets, as detailed in the response to recommendation 4.

Recommendation 7

The committee recommends that the Australian Government work with the states and territories to establish a mechanism to investigate adverse pet food events and develop a complementary education campaign to raise awareness of the adverse pet food reporting, investigation and recall regime.

The government agrees in part with this recommendation.

PetFAST is well established and is accessible to all veterinarians (not just Australian Veterinary Association members). It has successfully identified pet food issues in the past. An education campaign to increase the awareness of the existence of PetFAST will increase its use and effectiveness. To determine the success of education efforts the number and severity of pet food complaints should be monitored over the next 2 years.

Another system that could support the work of PetFAST is VetCompass which receives pet food data from veterinary practices across Australia, including university veterinary practices. These data are currently used retrospectively for research purposes however, with further enhancements, it could be developed into a system to automatically review the data on a daily basis and create alerts when anomalies such as increased occurrence of key words occur. These potential issues could be investigated further, for example by reporting them to PetFAST investigators.

The government recognises the value of raising awareness through education campaigns. The pet food working group will provide recommendations for education campaign options in their report to the Agriculture Senior Officials' Committee and the Agriculture Ministers' Forum. These options will include increasing consumer awareness of AS5812:2017 and informing consumers of their reporting options.

Work has already begun to increase public awareness of pet food issues and AS5812:2017. In 2020 the PFIAA website was updated with articles on AS5812:2017, understanding pet food labels, and feeding pets. The PFIAA website has had 3500 unique visits per month, many of which are visits to pages about AS5812:2017, PetFAST, labels, and information on different pet food issues. Since January 2020, the PFIAA have increased their reach to consumers via social media, engaging 60,000 users.

The RSPCA knowledge base website contains several articles on pet food. These cover topics such as 'What should I feed my dog/cat?', 'How is pet food regulated?', and 'What do I do if there is a problem with my pet's food?' The RSPCA also uses social media to highlight articles posted on the RSPCA website and has approximately 280,000 Facebook followers and 29,200 Instagram followers.