



PO Box 5423
KINGSTON ACT 2604
Australia
Tel + 61 2 6271 2222
www.foodstandards.gov.au

Office of the Chief Executive Officer

Committee Secretary
Senate Standing Committee on Rural and Regional Affairs and Transport
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Committee Secretary

**Food Standards Australia New Zealand (FSANZ) submission to the Senate Inquiry
on Definitions of Meat and other Animal Products**

Thank you for the opportunity to make a submission to the Senate Rural and Regional Affairs and Transport Legislation Committee Inquiry on the Definitions of Meat and other Animal Products.

Attached is our submission containing information on the role of FSANZ in the food regulation system, how food standards are developed and a summary of consumer laws and requirements in the Australia and New Zealand Food Standards Code relevant to meat analogue foods.

I trust the information provided in this submission will assist the Committee with the Inquiry.

Yours sincerely

Mark Booth
Chief Executive Officer

27th July 2021

FSANZ submission to the Senate Inquiry on Definitions of Meat and other Animal Products

Food Standards Australia New Zealand (FSANZ) welcomes the opportunity to make a submission to the Senate Inquiry on the Definitions of Meat and other Animal Products.

The role of FSANZ

FSANZ is an independent authority, within the portfolio of the Australian Government Department of Health, established under the *Food Standards Australia New Zealand Act 1991* (FSANZ Act). FSANZ is governed by a [Board](#) with members drawn from Australia and New Zealand and is an integral part of the food regulation system for both countries.

[The Australia and New Zealand joint food regulation system](#) protects the health and safety of consumers and involves all levels of the Australian and New Zealand governments.

[FSANZ's primary role in the food regulation system](#) is to develop and maintain the food standards which make up the [Australia New Zealand Food Standards Code](#) (the Code). The Code sets out the legal requirements for food produced or imported for sale in Australia and New Zealand.

FSANZ also has other functions in Australia including coordinating food surveillance and food recall systems.

The Code does not have any legal effect of itself. Rather, the [Food Regulation Agreement](#) between the States, Territories and Commonwealth of Australia provides that the States and Territories will adopt or incorporate into State or Territory law the standards in the Code. The Australian and New Zealand Governments have also entered into an agreement by which New Zealand adopts the majority of food standards in the Code under New Zealand food law.

FSANZ does not have a role in relation to the enforcement of the Code. Instead this is the responsibility of government agencies responsible for the food laws that adopt and apply the Code. This means that, in Australia, State or Territory government agencies and in many cases local councils, are responsible for the application, interpretation and enforcement of the Code. The Australian Department of Agriculture, Water and the Environment is responsible for enforcing the Code at the border. In New Zealand, enforcement is the responsibility of the New Zealand Ministry for Primary Industries.

How FSANZ develops food standards

FSANZ must develop food standards in accordance with the FSANZ Act and Australian administrative law.

The FSANZ Act sets out a statutory process for standards development, which includes public notification and consultation. FSANZ's processes are open and transparent, and rely on input from industry, the public health sector, consumers and governments to inform standards development work.

Food standards are made or amended by FSANZ through application or proposal. Any person may [apply to FSANZ](#) at any time to seek an amendment to the Code, whereas proposals are prepared by FSANZ. For both applications and proposals, the FSANZ Act requires FSANZ to undertake an evidence based assessment of a proposed Code amendment in accordance with that Act. FSANZ uses a [risk analysis process](#) for

assessments which is based on the internationally accepted Codex Risk Analysis Framework.

The FSANZ Act prescribes objectives and assessment criteria to which FSANZ must have regard in standards development.

Section 18 of the Act sets out the following objectives (in descending order of priority) for FSANZ when developing or reviewing food standards:

- the protection of public health and safety
- the provision of adequate information relating to food to enable consumers to make informed choices
- the prevention of misleading or deceptive conduct.

Section 18 of the Act also requires FSANZ to have regard to the following when developing or reviewing food standards:

- the need for food standards to be based on risk analysis using the best available scientific evidence
- the promotion of consistency between domestic and international food standards
- the desirability of an efficient and internationally competitive food industry
- the promotion of fair trading in food
- any written policy guidelines prepared by the food Ministers.

Other standards development assessment criteria prescribed by the FSANZ Act include:

- whether costs that would arise from the proposed food standard outweigh the direct and indirect benefits to the community, Government or industry that would arise from its development
- whether other measures (available to FSANZ or not) would be more cost-effective than the proposed food standard
- whether there are any relevant New Zealand standards
- any other relevant matters.

All standards and variations to standards approved by the FSANZ Board are referred to the [Food Ministers' Meeting](#) (formerly the Australia and New Zealand Ministerial Forum on Food Regulation) for consideration. Consideration by the Food Ministers' Meeting is the final step in the standards development process under the [Food Regulation Agreement](#) and the FSANZ Act. If the Food Ministers' Meeting accepts standards or variations to standards they are included in the Code and adopted into Australian and New Zealand food laws. The Food Ministers' Meeting is made up of Ministers from each of the States and Territories, the Australian Government and a Minister from New Zealand. Ministers have responsibility for setting food regulation policy and for general oversight of the food regulation system.

Meat analogue foods

Meat analogue foods are regulated in the same way as all other foods sold or offered for sale in Australia and New Zealand.

State, Territory and New Zealand food laws

Food sold in Australia must comply with State and Territory food laws. These laws generally require all food sold or offered for sale to be safe and suitable. They also require food and food products offered for sale to comply with any relevant requirement set by the Code for that food.

Australian State and Territory food laws expressly prohibit misleading and deceptive conduct in relation to the advertising, packaging or labelling of food intended for sale. These prohibitions do not rely on the Code.

The *Food Act 2014* imposes similar requirements on food for sale in New Zealand.

Consumer protection laws

Consumer protection legislation in Australia and New Zealand prohibits misleading or deceptive conduct, and false or misleading representations about goods and services including food offered for sale. In Australia, the Australian Competition and Consumer Commission (ACCC) enforces the *Competition and Consumer Act 2010* (Cth); and States and Territories enforce their own consumer protection legislation. In New Zealand, the New Zealand Commerce Commission (NZCC) enforces the *Fair Trading Act 1986* which prohibits false and misleading conduct by businesses.

The Code - requirements

Meat analogue foods are subject to the same Code requirements that apply to all foods for sale in Australia and New Zealand.

The Code includes standards that regulate the use of ingredients, processing aids, colourings, additives, nutritive substances, vitamins and minerals and novel foods as well as the composition of some foods, such as dairy foods, meat and beverages. Should a food business wish to use a substance that is not permitted in the Code, the business must apply to FSANZ to amend the Code to permit the substance. FSANZ would assess the substance as outlined above and if accepted by Ministers, the Code would be amended to permit its use.

The Code also covers labelling requirements for packaged and unpackaged food, including the naming of food, nutrition information, the statement of ingredients, allergen declarations and specific mandatory warnings or advisory statements.

Code requirements for the naming and representation of food

The following is a summary of Code requirements relating to the naming and representation of food, including meat analogues.

The Code requires certain foods for sale to bear a label. For these foods the label must include the name of the food (paragraph 1.2.1—8(1)(a) of the Code).

The name of the food stated on the label must be sufficient to indicate the true nature of the food unless the Code requires a prescribed name to be used instead (subsection 1.2.2—2(1) of the Code). There are no prescribed names in the Code for meat analogues.

The Code provides that certain foods sold with a specified name or representation must satisfy compositional requirements. For meat and meat products these foods (as defined in subsection 1.1.2—3(2) of the Code) are:

- sausage
- meat pie
- dried meat
- cured and/or dried meat flesh in whole cuts or pieces
- manufactured meat
- processed meat.

In these circumstances, section 1.1.1—13 of the Code requires that these compositional requirements must be satisfied in any sale in which a purchaser is likely to assume that the food being sold was one of the foods listed above (e.g. a sausage) unless the context makes clear this is not the intention.¹

For example:

The Code requires that a food that is sold as sausage must be sausage and:

- (a) contain no less than 500 g/kg of fat free meat flesh; and
- (b) have a proportion of fat that is no more than 500 g/kg of the fat free meat flesh content.

For this purpose, the term 'sausage' is defined by the Code to mean 'a food that:

- (a) consists of meat that has been minced, meat that has been comminuted, or a mixture of both, whether or not mixed with other foods, and which has been encased or formed into discrete units; and
- (b) does not include meat formed or joined into the semblance of cuts of meat.'

These compositional requirements include the requirement that the product contains meat. In this regard, the Code defines 'meat' to mean meat from animal sources.

As such, the above compositional requirements do not apply to meat analogue products labelled and sold as 'meat-free sausage', 'vegetarian sausage' or 'soy sausage'. It is clear that such a product is not a sausage containing meat from animal sources. Nor is it being sold or intended to be sold as a sausage of meat from animal sources. Therefore, compositional requirements in the Code that apply to food sold as a sausage of meat from animal sources do not apply.

Section 1.1.1—13 of the Code does not apply to meat/meat products other than those listed above (e.g. minced beef, ribeye steak). For those foods, the requirement for the name of the food to indicate its true nature applies (subsection 1.2.2—2(1) of the Code). As for all foods, consumer protection legislation also applies.

¹ Section 1.1.1—13 is not just applicable to meat and plant-based foods, it applies across the food supply (e.g. a beverage named as 'ginger beer' does not need to comply with Code requirements for beer, as 'ginger' provides the context of the beverage).