



Submission to FSANZ review of Safe Food Australia 25th September 2015

The current definition of safe and suitable food protects companies not our health.

It is overly restrictive and needs substantial improvement.

The definition of safe food should be amended to read: *Safe food is food that causes no harm.*

The exclusions (e.g. sections 2.2, 2(5)) should be deleted and replaced with a more sophisticated approach which recognises that there are different types, scales and time-frames of potential harm. For example, robust evidence is required that long term or repeated use of a food, ingredient, processing aid or additive remains safe.

Preventing harm should be the foremost priority of FSANZ.

The exclusions and limitations on the definition of safety are extremely misleading – and scientifically unjustifiable. For example, as written, a food would not be classified as unsafe even if 49% of the population suffered harm as a result of eating that food.

Similarly, the exceptions in 2(5) that, ‘food is not unsuitable for the purposes of the Food Safety Standards merely because:

- (a) it contains an agricultural or veterinary chemical in an amount that does not contravene the Food Standards Code, or
- (b) it contains a metal or non-metal contaminant (within the meaning of the Food Standards Code) in an amount that does not contravene the permitted level for the contaminant as specified in the Food Standards Code, or
- (c) it contains any matter or substance that is permitted by the Food Standards Code

should be deleted.

Harm to the public from food consumption is unacceptable regardless of whether FSANZ has deemed the food safe. FSANZ claims that safety assessments effectively negate the risks of harm and eliminate the responsibility of the agency and manufacturers. This is not acceptable. Where harm occurs, FSANZ should immediately reassess the food products, the extent and scale of the harm, and eliminate the harm to the fullest extent possible. This could mean, for example, mandating warning labels for chemical residues known to cause adverse reactions in some individuals.

We are proposing that FSANZ shift its approach from ignoring harms to proactively reducing them in appropriate ways.

Secondly, FSANZ’s safety assessment standards are not sufficiently rigorous to justify immunising food producers from the kinds of harm that are increasingly being seen in Australia. These include food chemical sensitivities, allergies, obesity, heart disease, immunity issues, etc. The definition of safe and suitable food should be amended to make clear that FSANZ approval cannot be used as a defence to negligence in the production of food.

Currently, the definition of safe and suitable food appears to be intended to protect companies not people from harm.

The definition of harm

In the current edition of *Safe Food Australia*, food is deemed unsafe if it would be likely to cause physical harm to a person who might consume it. Harm is not currently defined in the publication, although we would recommend that the guide do so - as the definition of safety is inextricably linked to our understanding of harm.

Without a specific definition, harm will be understood based on its common meaning.

We believe that restriction of the definition of harm to physical harm is inappropriate. For example, there is substantial evidence that certain foods may cause behavioural problems - which should be explicitly captured in the definition of harm,

A definition of harm should include the following:

- Harm should be defined as any impact associated with the consumption of food that requires medical attention or intervention, or has acute or chronic impacts on the quality of life for those individuals affected;
- Harm should be defined to include direct, indirect, cumulative, chronic, long term and synergistic harm due to the consumption of one or more foods regardless of sensitivity, propensity, genetic makeup or other factors that may make an individual more or less susceptible to harm from the consumption of foods;
- Harm includes lethal and sub-lethal harms; it includes effects such as allergies, skin conditions, obesity, addiction, immune deficiencies, heart conditions caused by weight gain, physical, emotional and psychological reactions and behavioural changes;
- Harm that affects the members of vulnerable populations should also be considered harm.

The definition of safe and suitable food must recognise that there are numerous ways in which food can be unsafe and numerous different groups of people who may be harmed by their reactions to some foods, or the materials added to them or created during processing.

The processes FSANZ uses to assess food safety are deeply flawed

The problems with FSANZ's current definition of safe and suitable food are compounded by the poor food safety assessment processes that FSANZ uses. Problems include FSANZ's:

- reliance solely, or predominantly, on applicant-generated data in its safety assessments;
- failure to test long term, chronic and sub-lethal impacts of exposure to multiple chemical residues;
- failure to ensure pre-market safety testing of all nanomaterials used in food and food contact materials;
- poor quality of safety assessments of genetically modified ingredients;
- refusal to re-evaluate approvals in light of new evidence in peer-reviewed papers that cast doubt on the safety of a variety of food ingredients.

FSANZ assessment practices are so far from best practice that they provide little evidence or reassurance of food safety and do not stand up to independent scientific scrutiny.

Novel foods cannot be assumed safe until they have been subject to rigorous safety testing

The definition of safe and suitable food should explicitly include recognition that new foods, new ingredients and new production systems cannot be considered safe unless they have been subject to independent, peer-reviewed and best practice safety testing. That testing must assess the likelihood of harm, as defined above. Their lack of a history of safe use in the human food supply makes pre-market testing and evaluation even more imperative.

Food cannot be assumed to be safe because the food, ingredients, or additives are deemed 'substantially equivalent' to a food that has been assessed as safe as this concept has no scientific validity.

Food that contains nanomaterials cannot be assumed safe, even if the bulk form of the nanomaterial has a legitimate and long term history of safe use. The scientific evidence strongly supports this.

Food derived from new GM techniques such as CRISPR, zinc finger nucleases and cisgenics cannot be assumed safe until it has undergone rigorous pre-market safety testing and regulatory approval.

Food cannot be assumed safe unless there are adequate surveillance systems in place

The definition of safe and suitable food does not recognise the role assessment, monitoring, surveillance and enforcement should have in determining and maintaining the safety of food. Food cannot be assumed to be safe, even following safety testing, unless there is a comprehensive surveillance system able to track sub-lethal, long term, cumulative and synergistic impacts in the commercial food supply. Without a robust food surveillance system, claims of a history of safe use of foods cannot be relied upon.

Though food surveillance is currently the responsibility of the states, FSANZ is and should be responsible for ensuring that effective food surveillance systems, applying uniform standards, are in place.

The Precautionary Principle

The definition of safe and suitable food must include a clear and unequivocal commitment to the Precautionary Principle. FSANZ appears to have moved away from this principle and replaced it with a 'commercialise first' approach to new foods, new materials, and new ingredients.

The precautionary principle is also being abandoned when it comes to new evidence. FSANZ repeatedly rejects the evidence in peer-reviewed literature – either by ignoring or dismissing it – inevitably in favour of industry. The result is that there are no criteria for rethinking or reviewing a finding of safety. For example, FSANZ has refused to accept that nanoparticles are used in Australian foods. Now that independent testing has found nanoparticles are used, FSANZ claims they are safe, despite a substantial body of peer-reviewed evidence that suggests the contrary. FSANZ has also not applied the precautionary approach in their response to nanoparticles in food and food packaging.

Some foods are safer and more suitable than others

FSANZ's definition of food safety is antiquated and fails to recognise how the problems associated with food safety and food harm have shifted.

It is now well established that the current system of industrial food production results in a suite of modern ills that FSANZ and the regulatory system do not address. While the food regulatory system has significantly reduced the harms historically associated with food (such as *E. coli* contamination) it ignores severe problems such as obesity, allergies, behavioural issues, chronic long term diseases etc. caused by the current food system.

While we recognise the distinctions we are proposing are both complex and nuanced, we believe the current definitions, which ignore these complexities are no longer acceptable

Conclusion

FSANZ utilises an archaic approach to food safety. Its testing standards are poor and frequently unenforced. It has no broad food surveillance system in place, nor does it address the serious health concerns associated with food consumption in Australia. Its clear bias is towards the food industry and not the public good. This results in a definition of food safety that does not serve the public and does not recognise the enormous public health issues that Australia faces as a result of unsafe and unsuitable foods.

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