



## **Submission**

Of the

**New Zealand Retailers Association**

To the

**Health Select Committee**

In respect of the

**Public Health Bill**

March 2008

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## **Introduction**

These submissions are presented by the New Zealand Retailers Association

## **Background**

The Association is the largest trade association representing the retail industry in New Zealand.

Our membership includes the major supermarkets and general merchandise chains, specialised chains, traditional department stores and thousands of owner operators spread throughout the country.

We also act as the Secretariat for a variety of trade groups including plumbing materials suppliers, metal fastener distributors, pet shops, jewellers, equestrian and sports goods dealers and bicycle retailers.

Viewed statistically we represent an industry that has annual sales of over \$60b per annum and which employs 325,000 people ( 17% of the workforce ) in some 49,000 outlets spread throughout the country

These particular submissions have been prepared in association with the two major supermarkets, Progressive Enterprises Ltd and Foodstuffs NZ Ltd who are the major distributors of fast moving consumer goods in New Zealand.

However, our involvement in the food sector also embraces the major department stores and many owner specialised retailers including convenience stores, independent grocery outlets, delicatessens, bakeries, cafes, restaurants, takeaway food retailers and confectioners.

The Association also works closely with other members of the food sector including the NZ Food and Grocery Council and the Food Industry Group. We are also members of the Grocery Industry Council.

## **General Submissions**

The Association is generally supportive of the objectives of the Bill that are designed to update existing public health legislation in New Zealand in order to “improve, promote, and protect public health and help attain optimal and equitable health outcomes for all populations groups in New Zealand”.

We have no disagreement with the specific policies devised under the Bill to deal with communicable diseases.

However, like other business groups we have major concerns over Part 3 of the Bill dealing with non-communicable diseases (cardio-vascular disease, diabetes, cancers, mental illness, addictions, obesity etc) and our submission concentrates on presenting views that are designed to assist the Government to achieve its public health objectives, but, at the same time, recognise that there “may be a better way” which reduces the necessity for direct Government intervention.

### **Specific Submissions**

We note that under section 3 the Bill stipulates principles and provisions for the making of Codes to address non-communicable disease risk factors and that at clause 81 it is stated that the Director General of Health will be authorised to issue Codes of Practice or guidelines to a sector in a particular activity.

We have major concerns over this interventionist approach.

As a matter of principle we are totally supportive of industry working together to develop, foster and maintain voluntary self regulatory processes that achieve socially and economically desirable outcomes rather than having regulatory outcomes foisted upon industry by Central Government that can be seen to be both cost prohibitive and administratively cumbersome.

We believe, for instance that the various Codes currently administered by the Advertising Standards Authority relating to the Advertising of Food and the Code for Advertising to Children work well and provide for a complaints and adjudication process.

Similarly the Code of Practice developed by the NZ Juice and Beverage Association over the composition and labelling of fruit juice and bottled water has worked effectively for a number of years and the number of cases required to be investigated by the Commerce Commission have been relatively few in number.

Finally we would point out that the Association together with the major supermarket groups and the Food Industry Group is working directly with the Ministry over possible initiatives under the Healthy Eating-Healthy Action strategy.

We note that clause 82 requires the Director General to consult with representatives of affected groups before issuing a Code of Practice. However, if this section is to proceed then we feel the Bill should be strengthened in line with the Fair Trading Act where the Minister of Consumer Affairs (not the General Manager) is required to consult with such persons or representatives of such persons who are substantially affected by the policy proposals before any product safety or consumer information standards are promulgated under the Fair Trading Act 1986.

We wish to make some general observations on the proposals in part 3 of the Bill which set out what a Code of Practice or Guidelines issued under the Act could contain:

- Clause 83(2) (b) states that a Code or Guideline may relate to “the development and maintenance of practices that are conducive to promoting health and safety”. We would have thought this was more a matter for the Ministry of Labour to pursue rather than the Ministry of Health;
- Clause 83(2) (c) states that a Code or Guideline may relate to “the performance, composition, contents, additives, design and construction of specified goods or substances”. We would have thought this was more a matter for Food Standards Australia New Zealand and the New Zealand Food Safety Authority given the current work being undertaken by these organisations in respect of healthy foods and compositional labelling;
- Clause 83 (2) (d) states that a Code or Guideline may relate to “the accessibility of specified goods, substances or services to members of the public or to sections of the public in particular to minors”. We believe this raises the principle of an individual's freedom of choice and ignores the issue of social responsibility which is often overlooked in policy proposals around merchandise sold in retail stores;
- Clause 83(2)(e) states that a Code or Guideline may relate to “the ways in which specified goods, substances, or services are advertised, sponsored, or marketed whether directly or indirectly”. We note that the current Advertising Authority Codes already contain rules relating to advertisements that must not mislead, be socially irresponsible and not directed to certain members of the public such as targeting alcohol sales to minors. We foresee the current interventionist proposals could well lead to the banning of the advertising of selected foods, alcoholic and non alcoholic drinks and for that reason do not see that Part Three of the bill should proceed;
- Clause 83(2) (f) states that a Code or Guideline may relate to “the information to be given to consumers of specified goods, substances, or services, whether as part of any advertising, sponsorship, or marketing or as part of any packaging or labelling of goods or substances”. We interpret this clause as giving the Director General of Health the right to prescribe information that is required in advertisements and labelling. Once again we point out that food labelling is the statutory responsibility of Food Standards Australia New Zealand

Quite apart from the above we note that the bill also contains at clause 374 that regulations may be issued to prohibit or regulate “the importation, manufacture, packing or sale of any thing likely to introduce or increase a risk to public health”. We re-raise the issue of Ministerial consultation and recommend that the Bill be amended in lines with the provisions of the Fair Trading Act outlined above

### **Conclusion**

For the reasons outlined above we recommend that Part three of the Bill not proceed at this time until further consultations are held with members of the business community.

We wish to appear to speak to our submissions

New Zealand Retailers Association  
March 2008