

Submission to **The Primary Production Select Committee**
On **The FOOD BILL**
From **Blackcurrants New Zealand Inc**

INTRODUCTION

Blackcurrants NZ Inc (BCNZ) represents New Zealand's 50 commercial blackcurrant growers and is the Recognised Product Group for Blackcurrants under the Horticultural Export Authority (HEA) Act 1987.

The industry has a value of around \$16 million in the year ended June 2010.

The New Zealand industry sees its future within added value health based products and believes its future in this market depends on a reputation for providing fruit that meets the highest standards for quality and food safety.

Under the HEA Act, we require all growers to be accredited under NZGAP at a minimum. Some growers meet this requirement through accreditation under GlobalGAP a quality programme operated by major UK.

SUBMISSIONS

Part 2, Subpart 3 – National Programmes

BCNZ is disappointed no process has been included in the Bill to enable the recognition of existing third party audited fruit and vegetable industry assurance programmes. This is despite the submissions to and significant engagement with officials by HortNZ. The existing programmes already more than adequately manage food safety and suitability issues. Based on recorded assurances to industry by officials that the existing programmes would be recognised, BCNZ has passed this advice on to growers. Had we been able to correctly advise growers, then opposition from the blackcurrant industry would have been significantly greater. This is a significant change, to which we have not had sufficient warning to assess prior to submission deadlines.

In developing the Bill NZFSA operated under specific policy principles. Principle 1 states:

“Government involvement and compliance costs imposed on the food sector will be minimised, consistent with government policies and the need for the food to be safe and suitable”.

The potential for a substantial increase in compliance cost for horticultural producers and packers with this proposed regime have been clearly identified by HortNZ throughout the consultation on the proposed Bill. They have proactively worked with NZFSA and have met various Ministers including the Minister of Food Safety to discuss their concerns.

At all of these meetings HORTNZ had been assured that a process will be included in the Bill whereby existing industry third party audited assurance programmes will be recognised as one way of meeting the requirements placed on growers by the Bill. We understand that HortNZ has gone to extraordinary lengths to stress the importance of this recognition and to explain the details of the programmes that the industry operates under.

The Chairman of the NZ GAP Management Committee Chris Sinnott and HortNZ's Food safety Manager Peter Ensor meet with the Minister of Food Safety onFebruary 2010 to discuss this point. At the conclusion of that meeting HortNZ's representatives were satisfied and assured by comments made by the Minister and officials about the recognition of existing programmes.

The assurances received at that meeting were also in line with comments made in the NZFSA Domestic Food Review Transition and Implementation Discussion Document published earlier this year which said in section 4.4 "*NZFSA will need to work with...industry groups to take into account and give consideration to existing audit systems both internal and external with a view to reducing operator compliance costs.*"

This advice has been passed on to industry groups, and then on to their growers, who now expect NZGAP and other food safety programmes to be recognised under the Food Bill.

Given the assurances HortNZ has received from the Minister of Food Safety, other Ministers and NZ Food Safety Authority officials that compliance costs will be minimised and that a process to recognised existing industry programmes would be included in the Bill, we are at a total loss to understand how these could not be included in the Food Bill.

New Zealand's horticultural produce is respected and trusted globally. The industry has been at the forefront of food safety developments actively established systems or adopted global standards to meet the stringent standards of global customer. The Bill as drafted provides no process to acknowledge what we already have in place and as a result simply duplicates existing requirements, systems and processes.

The Regulatory Impact Statement estimates the cost of registration at \$50 - \$100 per business and the cost of verification of a National Programme level 1 at \$100 - \$300. The Horticulture industry has approximately 7,000 growers which means a total cost of up to 7,000 x \$400 = \$2.8 Million. This is based on \$100 per hour and does not include travel time or costs that could be significant for some growers.

The Bill as drafted imposes significant additional compliance costs and duplication without delivering any improvements in food safety for the estimated over 6,000 of the industries 7,000 growers and numerous packhouses that already operate under third party audited assurance programmes. This includes *(Note numbers to TBC can we add to this list)*

While the Blackcurrant industry comprises a small part of the total, the compliance costs of the Food Bill as proposed will be significant to our growers.

To minimise compliance costs BCNZ requests that *Part 2, Subpart 3 - National Programmes of the Bill* be amended to include provision for the CE to officially approve a third party audited industry assurance programmes as one way of meeting National Programme requirements in a similar way to which the CE

can approve a Food Control Programme under *Part 2, Subpart 2 - Food control Plans Clause 33.*

To avoid further unnecessary compliance costs this approval should extend to registration processes, verification functions and frequencies.

This will remove the need for producers to separately register with the CE or Territorial Authorities if there is a publically available list of businesses that operate under a recognised scheme. It will also allow the CE to recognise within the industry scheme the frequency of verification and the parties undertaking the verification.

How we see this working in Practice

To minimise compliance costs and reduce duplication the Bill should provide for a process as follows for food sectors operating under a national programmes

- a) any individual or grouping of individuals should be able to apply to the CE to have a particular industry assurance programme accepted as one way of meeting the requirements of a national programme applicable to an industry sector*
- b) after assessing the food safety and suitability aspects of the programme submitted the CE may approve the programme as meeting the requirements of a national programme at a particular level. The approval will be specific to a particular national programme level. In addition this approval may specify*
 - that the approved programmes verification process (including verification frequency) meets the requirements under the Bill but only where that verification is undertaken by a third party approved by the CE.*
 - that the approved programmes registration process meets the requirements under the Bill but only where the list of businesses participating in the programme is publically available.*
- c) when a programmes verification and registration process are approved then the operator of the food business is not subject to further verification and is not required to separately register with a registration authority.*
- d) the cost of applying for approval of an industry assurance programme should be at no cost to the industry concerned. The business operators have already invested in these programmes to meet customer requirements and the process of approval is in the public interest.*

Part 3 – Food Imported for the purpose of Sale

Food imports into New Zealand have increased significantly over the past 5 years. It is vital that imported food meets the same food safety and suitability standards expected of New Zealand produced food.

BCNZ is concerned that while the proposed controls for food produced in New Zealand extend back to a horticulture production level that for imported food the proposed controls only extend to importer level. We would be interested to learn how issues around the compliance of growers and packers of produce offshore will be handled within the new regime.

BCNZ supports the processes outlined in the Bill around imported food and the need for importers to be registered. We also note that our major horticulture industry wholesalers, processors and supermarkets are also importers of horticulture products. If these entities can manage the food safety and suitability risks associated with imported products at the point of entry to New Zealand then can they also manage the same issues related to domestically produced food when it arrives in their facilities?

NZ blackcurrant must compete with imported blackcurrant concentrate – much with a production history that is unknown. We would contend that the provisions in the Bill relating to the registration and verification of individual producers and packhouses are more stringent for domestic producers than they are for producers of the same products imported into New Zealand. This presents a competitive and food safety inequality which needs to be addressed.

Part 5, Subpart 7 - Transitional Issues

BCNZ supports the need for a transition to the new legislative regime over a period of 5 Years.

Preliminary information supplied by the NZ Food safety Authority has outlined the proposed transition dates for various food sectors. We support the proposal that horticulture producers and packhouses should come into the new regime in year 3.

Given that the schedules already exist and have been subject to public consultation we see no reason why they cannot be included in the Bill and appropriate wide-ranging powers given to the Governor General to amend the schedule as required. We believe that embedding the schedule into the Bill will provide more certainty for the food industry and would reduce bureaucratic costs.

Part 5 – Miscellaneous Provisions

BCNZ supports the provisions under clause 318 of the Bill that provide for the CE to grant exemptions for food that is to be exported from certain standards and/or regulations under the Bill.

We believe that these exemptions should be able to be extended to cover food that is mainly produced for export markets and meets the regulatory requirements of export markets but gets sold on the domestic market.

Many horticulture products in New Zealand are grown specifically to meet the food safety and suitability standards of export markets. However, in some cases due to physical defects (such as skin marking, size or shape) not all of the produce is exported.

Schedule 2 – Food Sectors Subject to National Programmes

Schedule 2 details food sectors subject to national programmes. BCNZ supports the classification of producers of horticulture food and horticulture packing operations as operating in the least risk (level 1) national programme level.

Schedule 2 schedule excludes producers who sell produce they have grown themselves directly to consumers. These producers are included in Schedule 3 and operate at a food handler guidance level.

Clause 20 sets out the process for classification of food sectors for the purpose of assigning applicable risk based measures. Clause 20 does not include the option of allocating 2 different levels of risk based measure to the same food sector. BCNZ is of the view that horticulture producers should all be assigned the same risk based measure.

We can see no technical justification for different horticulture producers being allocated different risk based measures. If anything there is a greater not lower food safety and suitability risk associated with produce sold directly to consumers when compared to produce sold through other channels. This is due to the systems that wholesalers, exporters, processors and supermarkets have in place and the requirements they have for suppliers to operate under third party audited compliance programmes such as those referred to earlier in this submission.

The enforcement of the exemption from operating a national programme for producers who sell produce they have grown themselves directly to consumers (Schedules 2 Part 4 Page 291 line 24) will be impossible to police.

There is significant public confusion and commercial abuse of the definition of farmers markets. While, we accept that the Farmers Market Association operates under strict rules about growers only selling what they have grown. We are very concerned about the huge number of flea markets, roadside stalls and internet sales outlets operated by people that "may" grow some but often not all and sometimes not any of the produce they sell.

It is not unusual for enterprising growers to sell some of their own product direct to consumers along side product that they have bought either from the wholesale market or directly from another grower. In this case these outlets will technically be required to operate at a national programme level 1. However, it will be impossible for any enforcement or verification agency to easily determine if a grower has in fact grown the lettuce being sold or bought it from a third party.

While, we understand that these businesses are operating at the lower levels of risk that is no reason to arbitrarily assign different risk based measures to the same activity or create laws that cannot be effectively enforced.

Ian Turk
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Blackcurrants NZ Inc