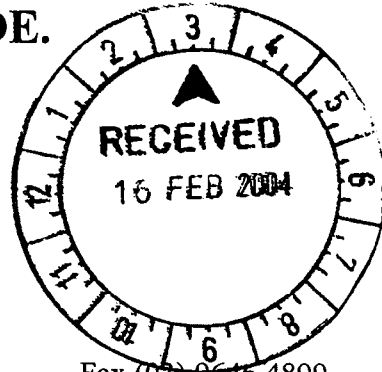


APPLICATION FOR VARIATION OF THE FOOD STANDARDS CODE.



PART 1: GENERAL INFORMATION

1.1 APPLICANT

- (a) Name: William Studd
- (b) Address; PO Box 37, Port Melbourne, Victoria 3207
- (c) Contact; William Studd Phone: (03) 9646 1971 Fax (03) 9646 4899
or Ronald Hull Phone: (03) 9807 5011 Fax (03) 9807 5011
- (d) Nature of applicants business; Specialist Cheese.

1.2 NATURE OF APPLICATION

- (a) This application seeks to vary the existing standard 1.6.2 Clause 2 "Processing of cheese and cheese products" to enable the production and sale of any cheese type made from unpasteurized milk, provided that the cheese meets European Union or Codex microbiological, physical and chemical standards of identity.
- (b) Application is being made on behalf of all specialist cheese manufacturers, cheese distributors, importers and exporters, retailers and consumers.

PART 2. SPECIFIC INFORMATION ON THE APPLICATION

2.1 DETAILS OF THE APPLICATION

- (a) Variation to the standard 1.6.2, clause 2 "Processing of cheese and cheese products".

The Australian standard (1.6.2) allows two systems for cheese manufacturing.

The first system requires the mandatory heat treatment of milk prior to cheesemaking, and the second system allows the use of raw (uncooked) milk for cheese making but is limited to specific varieties of cheese.

This is prescribed in clause 2:-

Processing of cheese and cheese products

- (1) Cheese and cheese products must be manufactured -
 - (a) from milk and milk products that have been heat treated -
 - (i) by being held at a temperature of no less than 72°C for a period of no less than 15 seconds, or by using a time temperature combination providing an equivalent level of bacteria reduction; or
 - (ii) by being held at a temperature of no less than 62°C for a period of no less than 15 seconds, and the cheese or cheese product stored at a temperature of no less than 2°C for a period of 90 days from the date of manufacture;

- OR
- (b) such that –
 - (i) the curd is heated to a temperature of no less than 48°C; and
 - (ii) the cheese or cheese product has a moisture content of less than 36%, after being stored at a temperature of not less than 10°C for not less than six months from date of manufacture; or
 - (c) in accordance to clause 3 of Standard 2.5.4.

2.2 PURPOSE AND EFFICACY OF PROPOSED VARIATION

This proposed variation to the Code will

1. Provide Australian and New Zealand consumers with the freedom and choice to purchase and consume cheeses available without similar restrictions in all other countries of the World.
2. Enable development of a credible regional value added specialist cheese industry in Australia and the sale of international benchmark cheeses made from raw milk.
3. Facilitate harmonization of Australia's domestic and export food standards with international standards as per COAG guidelines
4. Ensure Australian domestic regulations in respect to cheese manufacture meet obligations under World Trade Organization (WTO) and Codex guidelines.

2.3 JUSTIFICATION FOR THE APPLICATION

The current Standard is

1. Overly prescriptive. It does not meet the Council of Australian Government (COAG) guidelines on primary production and processing standards that stipulate an objective of minimal effective regulation.
2. The purpose of the Standard is to guarantee safe Cheese – however the assumption that pasteurisation as a single step will guarantee safety is not scientifically valid.
3. The single critical control point that guarantees safety for all cheese varieties is starter culture activity that creates a hostile environment to pathogens in the cheese. Starter culture activity comprises two biological components, the first is primary fermentation of milk sugar to organic acids during cheesemaking and the second is secondary fermentation/metabolism of organic acids, fat and protein during ripening. This principal is accepted by all of the major cheese producing countries of the world eg. European Union (EU) and USA, Canada, and is supported by scientific studies.
4. The current standard is anti competitive and trade restrictive. It was originally developed for the purpose of international marketing of (safe) infant milk powders and not cheese. The standard does not encourage world best practice in cheese-milk production and allows the use of milk of poor microbiological quality for cheesemaking.
5. The standard is a breach of Australia's commitment to WTO Policy, as it cannot be

justified on scientific grounds for food safety.

WTO Article 5.1 requires members to 'ensure that their sanitary or phytosanitary measures are based on an assessment, as appropriate to the circumstance, of the risks to human, animal or plant life or health, taking into account risk assessment techniques developed by the relevant international organizations'.

Article 5.2 states in the assessment of risks 'Members shall take into account available scientific evidence'.

Article 5.4 states 'Members should, when determining the appropriate level of sanitary or phytosanitary protection, take into account the objective of minimizing trade effects'.

2.4 NEED FOR APPLICATION

2.41 This application is being made on behalf of CheeseChoice

(a) See 2.2 and 2.3 above

b) Export and local consumer demand exists for cheeses made from unheated milks that meet international standards as currently found in all other countries

2.5 NUTRITIONAL IMPLICATIONS

2.5.1 No nutritional implications are foreseen. The nutritional profile of cheese made from unpasteurized milk is not significantly different from cheeses made from pasteurized milk.

2.6 DIETARY IMPLICATIONS

2.6.1 No dietary implications are foreseen.

2.7 ADVANTAGE TO THE CONSUMER

2.7.1 The advantage to the consumer lies in providing a greater variety of choices of local and international benchmark regional cheese and encouraging a credible specialist cheese industry in Australia enabling Australian cheese makers to compete on an equal basis in local and export markets.

REGULATORY/LEGISLATIVE IMPLICATIONS

2.8 International standards

Most countries allow choice in the sale and/or manufacture of cheeses made from unpasteurized milk.

Country	Raw milk cheese Allowed
Belgium	Yes
Canada	Yes
China	Yes
European Union (EU)	Yes
France	Yes
Germany	Yes
Greece	Yes
India	Yes
Italy	Yes
Japan	Yes
Netherlands	Yes
Portugal	Yes
Singapore	Yes
Spain	Yes
Switzerland	Yes
United Kingdom	Yes
USA	Yes

2.9 International legislation

WTO and Codex

2.10 Regulatory Impact Statement (RIS)

- 3.3.1 The Regulation Impact Statement (RIS) should recognize that raw milk cheese is a specialty product, and raw milk cheese is unlikely to capture a significant share of the cheese market, or impact upon levels of cheese consumption. The cheeses will be more expensive than mass-produced pasteurized cheeses, due to the additional costs of production and maturation. However it allows choice and will ensure that domestic production can be competitive to international benchmarks.
- 3.3.2 The principal impact of the amendment sought in this application is the creation of consumer choice and an internationally credible regional cheese industry. Raw milk cheeses provide a range of taste and texture experiences that differ from pasteurized

cheeses, and are value added so commanding a premium price and marketing advantage.

- 3.3.3 Mass-produced pasteurized cheeses are not required to undergo the costs of making an application such as this, and have a vested interest in limiting competition and preventing the production and sale of raw milk cheese for their own exclusive commercial advantage.

ANALYTICAL PROCEDURES

No new analytical procedures are required for testing of raw milk cheese. All of the procedures are currently available and are used in the testing of pasteurized milk cheeses and raw milk cheese allowed under clause 2.1.(b) of Standard 1.6.2..

DETAILS OF REASONING

The reasons behind this application are listed below.

- 1) The proposed variation will allow the use of an internationally accepted method of cheese manufacture, which is presently disallowed in Australia by the present standard.
- 2) The proposed change will bring Australian regulations more into line with the major cheese manufacturing countries, such as the EU and USA, that together manufacture two thirds of the world's cheese.
- 3) The USA and the EU together are the global source of knowledge on cheese science and technology, cheese quality and cheese safety issues. This is public knowledge and covers all relevant aspects of cheese. It includes milk production, dairy cow health, farm milk hygiene, milking equipment, raw milk storage and transport for cheese making, cheese manufacture and cheese processing, cheese packaging systems, cheese maturation and storage, cheese transport and distribution and cheese retail systems.
- 4) The USA and the EU are World Trade Organization (WTO) member countries and are major cheese consuming countries, and with their commercial knowledge of the cheese industry and public health issues have always allowed cheese to be made using raw milk.
- 5) Market opportunities are currently being lost to Australia , particularly in respect to its natural advantages in pasture based milk production .
- 6) Australia is well place to service the growing demand for regional cheeses and develop the emerging global market for value-added cheese, particularly those made with raw milk from pasture based dairy animals

6 MANUFACTURING AND PUBLIC HEALTH

6 .1 Manufacturing process

6.1.1 The application seeks to recognise the many available procedures to make unpastuerised milk cheese.

2.11 Public health and safety

6.2.1 There is no reason why cheese made from raw milk should represent a greater degree of risk than those produced from pastuerised milk providing

(a) They meet the defined compositional requirements for each cheese variety

and

(b) Comply with end product micro biological testing as defined under Australian Standard ...1.61.

DECLARATION

I, William Studd declare that the information provided in this application fully sets out the matters required and that the same are true to the best of my knowledge and belief and that no information has been withheld which might prejudice this application.

Signature:

JOANNE LEE
270 Bay Street Port Melbourne Victoria
A current practitioner under the
.....Legal Practice Act 1996

Declared before me*..

this..... 30th day of JANUARY 19-2004

* A Chief, Police, Resident or Special Magistrate; Stipendiary Magistrate or any Magistrate in respect of whose office an annual salary is payable; a Justice of the Peace; a person authorised under any law in force in Australia or its Territories to take affidavits; a person appointed under the to be a Commissioner for Declarations; a person appointed as a Commissioner for Declarations under the and holding office immediately before the commencement of the ; a Notary Public; a person before whom a statutory declaration may be made under the law of the State in which a declaration is made; or a person appointed to hold, or act in, the office in a country or place outside Australia of Australian Consul-General, Consul, Vice-Consul, Trade Commissioner, Consular Agent, Ambassador, High Commissioner, Minister, Head of Mission, Commissioner, Charge d' Affaires, or Consellor, Secretary of Attache at an Embassy, High Commissioner' s office, Legation or other post.