

21 April 2006

Commissioner Fitzgerald  
Standards and Accreditation Study  
Productivity Commission  
PO Box 80  
BELCONNEN ACT 2616

Dear Commissioner Fitzgerald

I forward a submission to the Productivity Commission concerning its *Review of the Australian Government's Relationship with Standards Australia Limited and the National Association of Testing Authorities, Australia* from the perspective of the NSW Food Authority.

The NSW Food Authority is a State Government agency established in April 2004 to provide New South Wales with the best food regulation system in Australia. The Food Authority is Australia's first and only completely integrated or "through-chain" food regulation agency responsible for food safety across the entire food industry, from primary production to point-of-sale in NSW. Our key objectives in forwarding a submission to the Productivity Commission on the current review of Standards Australia Limited (SA Ltd) and the National Association of Testing Authorities (NATA) are to:

- Illustrate the value of standards setting and accreditation in food safety management and the significance of this to Australian society.
- Highlight the importance of international recognition and harmonisation of standards setting and accreditation programs
- Draw attention to areas of challenge and opportunity
- Offer comments on the appropriateness of Australian government funding

*Societal value derived from standards setting and accreditation*

The NSW Food Authority works with local government to enforce all aspects of the Australian and New Zealand Food Standards Code, the NSW Food Act 2003 and the State's food safety programs. Specifically for the people of NSW, the Food Authority aims to have in place a regulatory framework that:

- a) Ensures food for sale is both safe and suitable for human consumption, and
- b) Prevents misleading conduct in connection with the sale of food.

For this reason, the Food Authority's undertakes numerous assessments of food for compliance monitoring, foodborne disease investigation and enforcement purposes. Because the findings from these studies provide: a measure of the effectiveness of the regulatory framework; may result in the application of a range of compliance and enforcement options (prosecutions, closing businesses, notices etc); and may lead to the revision and development of regulations, our assessment procedures for food sold in NSW (whether imported or local) require some form of third-party oversight.

For laboratories undertaking testing of foods for the Food Authority:

- laboratory accreditation by NATA is used to ensure that service providers are competent at the specific tasks requested of them
- standards set by SA Ltd are used for the laboratory accreditation (NATA requirement) and test methodology where possible.

The societal value gained for the people of NSW is a safe and suitable food supply.

#### *International recognition and harmonisation*

Trade is the predominant driver of adopting international and harmonised standards. The safety of foods in international trade is governed by the World Trade Organization (WTO)/Sanitary and Phytosanitary (SPS) Agreement, which recognizes that governments have the right to reject imported foods when the health of the population is endangered. In order to achieve this, the term 'appropriate level of protection' has been used, which is defined as "the level of protection deemed appropriate by the Member (country) establishing a sanitary or phytosanitary measure to protect human, animal or plant life or health within its territory". Traditionally, this has been defined in terms of having a chemical or microbial risk "as low as reasonable" and is translated into a definable goal: a specified maximum frequency and/or concentration of a hazard in a food. In this respect, food regulators must be transparent and open in their assessments of the safety and suitability of food for human consumption and basing assessments on internationally recognised and harmonised standards assists this task.

NATA is the only national body involved in laboratory accreditation. Because of this, it is particularly important that NATA develop its conformity assessment from standards that offer laboratories, laboratories users, and those that may act on laboratory results a recognisable international benchmark and the opportunity for international peer review of NATA. To meet this end, it is acknowledged that NATA has adopted AS ISO/IEC 17025 in its assessment of laboratories and is

increasing its portfolio of bilateral mutual recognition agreements. When coupled with the adoption and harmonisation of international test methodologies this can reduce technical barriers to trade for exported Australian product and product imported into Australia through the acceptance of test results derived in other countries with whom Australia has mutual recognition agreements.

International recognition and harmonisation of standards setting and laboratory accreditation assists in facilitating openness and transparency in trade.

### *Challenges and opportunities*

The NSW Food Authority sees four key issues facing both SA Ltd and NATA:

a) Access to technical expert advice

Underpinning standards development and laboratory assessment are independent professional experts providing their services on a voluntary basis. It is important that independent professional expertise is retained in the standards development and laboratory assessment process but it must be acknowledged that over the past 10 years there has been a change in attitude and philosophy towards time commitment. Both industry and government capacity to release staff for these activities is diminishing.

It is vital that SA Ltd and NATA understand the basis of this diminishing commitment and put in place strategies to counter it. Some examples could include the development of strategic partnerships, or financial compensation for an individual's time and expertise.

b) Variability of assessments and follow-up action

NATA has in place various mechanisms and processes to minimise variability in how assessments are undertaken and conclusions reached. Minimising consistency certainly is underpinned by this and is also dependent upon the experience and capability of the volunteer technical assessor. Diminishing access to this volunteer basis (identified above) coupled with the steady decrease in students pursuing a career in the biological sciences places uniformity of the accreditation process at risk via an incapacity to access appropriately qualified and experienced expertise.

It is essential that SA Ltd and NATA put in place measures to counter emergence of this impact.

A perceived weakness in the system is NATA's (occasional) reluctance to make non-compliant labs inoperative. It may be opportune for NATA to review and refine its processes in this area in the context of any potential conflict of interest due to the user-pay system.

b) Speed of reaction in adopting international standards

International recognition and harmonisation of standards setting and laboratory accreditation is viewed by the Food Authority as a strong facilitator of transparency and openness in trade. In the biological area, SA Ltd has been slow in its responsiveness to this. Mirror ISO committees have just been established within the biological framework of SA Ltd. It is important that these raise their profile and engage directly with ISO committees or at the very least be proactive to ISO committee outcomes.

c) Changes in food standards setting and test methodologies

The past 15 years has seen a change in food standards development, which has become outcome focussed. This recognises that safety cannot be tested into a product and encourages the adoption of a systems-based approach (e.g. food safety programmes like Hazard Analysis Critical Control Point) directed at verifying process criteria (e.g time and temperature measurement) that deliver a defined end point (e.g. appropriate level of reduction of a hazard). In this respect, how food is made and how it is tested is no longer prescriptive.

With improvement in methodology and technology the role of NATA and SA Ltd is changing. Previously, laboratories used the single prescribed method. Presently, laboratories have the flexibility to use various methods. It is in NATA's and SA Ltd's interest to build networks of expertise that can make equivalence determinations of methodologies and or accept equivalence determinations of methods that have undergone internationally recognised validation procedures such as those offered in Europe and the USA.

d) Different providers of services

Standards setting is not the exclusive domain of SA Ltd. Indeed, the International Organisation for Standardisation has a significant influence in Australia. This means that SA Ltd has a strong competitor to which it is compared.

NATA does not have a competitor in the area of laboratory accreditation. From the Food Authority's perspective this is not an issue. In our view the market place is too small to support multiple providers in this area.

*Appropriateness of Australian government funding*

As a nation, Australia's economic growth is reliant on the export of whole and transformed agricultural products. Having a presence and influence on international standard setting bodies and building recognition of laboratory conformance assessment across countries is critical.

The NSW Food Authority sees participation by SA Ltd and NATA as peak bodies representing Australian interests in these international forums of national good and would support a continuance and strengthening of government support for these activities. In our opinion, Australia is currently underrepresented in this area and therefore not sufficiently influential and appropriately engaged.

In closing, I would like to thank the Productivity Commission for providing opportunity for the NSW Food Authority to share its views.

Yours sincerely

George Davey  
**Director-General**