

Gene Ethics Media Release - Friday September 16, 2011 FSANZ sued for failure to give public notice

In Gene Ethics and the Safe Food Institute vs Food Standards Australia NZ (FSANZ), the applicants filed a writ in the federal court in Melbourne today. The court issued directions today for a trial on November 14 2011 where the applicants will claim that FSANZ did not comply with the law which required it to give proper public notice of its application for a general review of irradiation food standard 1.5.3.

"We believe FSANZ hid its review, that weakens irradiated food labelling and record-keeping, within a Queensland Government application to irradiate persimmons (A1038)," says Gene Ethics Director Bob Phelps. "In our view, FSANZ should have published its proposed general review of food irradiation standard 1.5.3, separate from the irradiation of persimmons and advised the public accordingly.

In a letter to Gene Ethics, FSANZ CEO Steve McCutcheon wrote: "I note your concern that the title of the Application, 'Irradiation of Persimmons' might be misleading. FSANZ will consider whether it is appropriate or practical to change procedures for identifying applications in order to provide additional information about an application that has an extended purpose."

"We consider that this is not a trivial matter as FSANZ also now admits that it had previously made its own general revisions to Food Standard 1.5.2 on genetically manipulated foods, within an application made for narrow and specific changes to the GM code," Mr Phelps says.

FSANZ also reports in its Final Approval of the application that: "... the NZ Ministry of Agriculture and Forestry suggested that for transparency, the amendments should be communicated in the title of the consultation to indicate to stakeholders the additional reforms proposed to the Standard in Application A1038." P20

Now, belatedly: "FSANZ has amended the description of the Application in the Work Plan and for any future references to the description/purpose of this Application." P21 We say that this does not go far enough and we challenge FSANZ to reprocess the applications separately.

"We missed out on making a submission on changes to the irradiation standard and say that FSANZ should have advertised its proposal separately," says the Safe Food Institute Director, Scott Kinnear.

"Standard 1.5 covers novel foods that have little history of safe use in the human food supply and we are not satisfied that FSANZ uses rigorous science or the precautionary principle in its safety assessments.

"We will argue that the general public were not properly notified of the real import of proposal A1038 and were misled. It's our view that FSANZ failed to comply with the law by incorrectly labelling the application. We think their omissions amounted to misleading and deceptive conduct.

"We do not know because FSANZ failed to mention the general changes to Standard 1.5.3 that it proposed to make, in its media release, notice to subscribers, Administrative and Risk Assessment Reports, FSANZ News and Notification Circulars and in the Fact Sheet, still on its website.

"It would be a useful win for the public interest if FSANZ agrees that all future applications for general amendments to the Food Standard always give separate, full and proper notice," Mr Kinnear concludes.

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<http://www.foodstandards.gov.au/foodstandards/applications/applicationa1038irra4655.cfm>