

Submission on the Pilot Program to Allow Commercial Imports of Kava into Australia:

Key argument presented in the below submission: *Allowing purchases of kava from overseas and importation of kava for personal use by mail from kava producing nations and New Zealand could be a viable first step solution in the process of relaxing the current restrictions. It could permit a gradual and easier to control increase in the availability of kava in Australia, improve the quality of kava consumed in Australia, open up new opportunities for business in the Pacific and allow for a greater control over the quantity and quality of the kava entering Australia and reaching diverse communities. If successful, the next step could be to align the Australian regulations with those of New Zealand (Option 1).*

Background and problem identification

Thank you for the opportunity to comment and the proposed pilot program to allow commercial imports of kava into Australia.

A reform of the current system is both timely and needed. After a period of controversy, kava is regaining good reputation as a relatively benign, relaxing beverage with restrictions on its usage being lifted across the Northern hemisphere. This process is driven by an increasing awareness of the overall benign nature of this plant beverage, as well as the better understanding that quality control issues and poor processing methods, not the physical properties of the plant itself, lied at the heart of most of the problems reported in the past. As noted by the World Health Organization in their 2017 report, it is now clear that kava can be consumed with “acceptably low level of health risk”.

In the absence of convenient options to obtain kava in a legal, regulated manner in Australia, much of the kava currently sold and consumed within Australia is obtained via informal channels, with no quality control or regulatory supervision or option to file complaints. According to numerous media reports, unscrupulous sellers have been selling “kava” powders unsuitable for human consumption and/or mixed with such fillers as: baking powder, flour, sawdust and even cement powder. Needless to say, it is more than likely that much of such kava would not meet the requirements set out in the Food Standards Code 2.6.3.

In this context, a step towards legalising commercial importation of kava could help to dramatically improve the quality (and consequently the safety) of kava products bought and consumed within Australia.

However, I acknowledge that one of the key concerns in Australia is the question of the potential impact of kava on some of the country’s most vulnerable Aboriginal communities. The question of whether or not kava has mitigated or aggravated some of the social and health issues experienced in these communities is controversial. According to some scholars and leaders, kava has proven to be a safer alternative to alcohol and other substances, and most of the adverse health outcomes observed among the Aboriginal kava consumers are linked to the low quality and high price of black market kava, rather than kava itself. According to other observers, any type of kava sold at any price might be detrimental to the health and well-being of these communities.

In the context of the current proposed pilot program, it appears that a gradual approach might offer the best chance of careful evaluation of the impact (if any) of the increased quantity (as well as quality) of kava entering the Australian market on the most vulnerable communities.

Proposed Solution

In light of the above, I would like to invite you to consider implementing Options 1 (Remove kava (in the form proposed for the pilot) from the PI Regulations, making kava in the form specified in the Food Standard 2.6.3 – Kava consistent with other foods imported into Australia, such is the case with the importation of kava in New Zealand), **preceded first by allowing importation of commercially packaged kava (up to 2kgs) for personal use by mail from New Zealand and the kava producing nations of the South Pacific.** If successful and no major issues are identified following its implementation, the next step could be to align Australia's regulations with those of New Zealand and to allow for kava to be sold commercially as food, provided it meets the strict rules imposed by the Food Standards Code 2.6.3.

New Zealand and Australia share food regulations via the joint Food Standards Code. Among many other food products, the Code provides sound regulatory requirements for ensuring the safety and quality of kava sold for the purpose of human consumption. It bans the use of additives, aerial parts of the kava plant (due to their toxicity) and it requires that kava is extracted with nothing but water. These requirements are based on science and reflect a broad scientific consensus. It recognises that kava in its pure, traditional form (i.e. a suspension obtained via cold water extraction of pure kava roots) is a safe beverage. At the same time, it rightly notes that impure, adulterated kava or products obtained via extraction with organic solvents may represent a public health risk.

While the enforcement of the Food Standards Code 2.6.3. in New Zealand can at times be challenging, registered businesses selling kava appear to mostly adhere to the regulations, especially when it comes to the ban on the use of organic solvents in the manufacturing of kava products. Even though the cases of kava being mixed with additives (e.g. flour) are not entirely unheard of, they are largely limited to unregistered vendors or those operating without the knowledge of or license from the appropriate authorities.

Importantly, thanks to the existence of the standard, such violations of the standard can be effectively dealt with by either the local councils or the Ministry for Primary Industries. Indeed, I have been informed of cases of kava vendors who had to cease trading kava when the Ministry for Primary Industries identified their products as non-compliant with the Food Standards Code.

It is worth noting that, despite New Zealand having some of the world's largest consumption rates of kava (with conservative estimates suggesting tens of thousands of regular consumers and many more occasional consumers), kava by itself is not identified as a source of any significant public health or social concerns. This is very likely to be at least partially related to the existence of the Food Standards Code for kava and the fact that kava vendors must by law adhere to broader food safety regulations. In light of the above, it appears sensible to permit imports of commercially packaged kava for personal use by mail from New Zealand. Unlike in the case of other countries, any identified problems with any kava products imported from New Zealand could be addressed via existing legal channels and within the framework of the cooperation between Australia and New Zealand in matters related to food quality and safety. The importation of regulated kava products for personal use from New Zealand via mail to Australia could achieve the goal of easing the access to kava among its traditional and modern consumers, while at the same time improving the quality and the regulatory control over both the quantity and quality of kava imports into Australia.

Likewise, across the Pacific (most notably in Vanuatu, Fiji and Tonga) local governments have been working on, or have already implemented strict rules and guidelines for local kava producers and exporters. There exists a significant number of operators who adhere not just to local regulations,

but also to wider standards and norms when it comes to food manufacturing. Some have managed to obtain HACCP certification, many are registered with the FDA. The possibility of sending their products directly by mail to consumers in Australia (or indirectly via New Zealand) would certainly be welcome by many. Indeed, Australia is perhaps the only country other than New Zealand, to which it might make sense to send retail quantities of kava (up to 2kgs) by mail from the Pacific without having to pay prohibitive postage or face extensive shipping times (as it is the case when it comes to trying to send orders directly to customers in America or in Europe).

The above-proposed solution would allow a greater number of Australians to access high quality kava. At the same time, it would be easier to monitor and control than having local businesses import large amounts for local sales. This makes this solution a suitable “first step” policy. It could be implemented at low cost and within a short amount of time. If successful, it could then be expanded to allow larger scale imports and sales within Australia (under Option 1).

This solution is particularly timely in light of the Covid-19 pandemic. While flights are grounded, no kava can come to Australia via legal channels. Opening up Australia to kava imports by mail could greatly alleviate the situation.

Thank you again for the opportunity to comment on this proposal. I hope my comments can be of some assistance. Should you require any additional information, feel free to contact me.

Yours sincerely,