

Aide-Mémoire

Meeting with Natural Health Products NZ

Date due to MO: 19 February 2024 **Action required by:** 21 February 2024

Security level: IN CONFIDENCE **Health Report number:** H2024035991

To: Hon Casey Costello, Associate Minister of Health

Consulted: Health New Zealand: Māori Health Authority:

Contact for telephone discussion

Name	Position	Telephone
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Tim Vines	Manager, Therapeutics Strategy Policy and Legislation	s 9(2)(a)

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Details of meeting:

Date: 21 February 2024

Time: 3.15pm – 3.45pm

Location: Minister Costello's Office 2.062 PH

**Purpose of meeting/
proposal:**

To understand Natural Health Products NZ's (NHPNZ) need for regulatory reform for natural health products (NHPs), and how it views future reform.

Comment:

Meeting with NHPNZ

- NHPNZ represents 80% of the NHP sector. In 2019, it estimated its members contributed \$2.3 billion to New Zealand's economy (including through wages, etc). The majority of its members (75%) are exporters with a combined 2019 export revenue exceeding \$600 million.
- NHPNZ will request immediate action to remove export regulatory barriers following repeal of the Therapeutic Products Act 2023. It estimates \$500 million per annum is currently being lost in export revenue.
- There are other stakeholder groups with divergent views on the regulation of NHPs that will also be important to hear from as the Government progresses work in this area.
- This aide-mémoire discloses all relevant information.

Maree Roberts
Deputy Director-General
Strategy Policy and Legislation

Purpose

1. You are meeting Samantha Gray, Government Affairs Director for NHPNZ, and Fletcher Tabuteau from Capital, on Wednesday 21 February in your office.
2. The purpose of the meeting is to discuss the future regulation of NHPs. In particular, NHPNZ wishes to discuss a “regulatory environment that allows the NHP sector to achieve its full potential as a creator of quality consumer products, innovation, employment, and export revenue for New Zealand.”
3. **Appendix One** provides a short biography on Samantha Gray and Fletcher Tabuteau. **Appendix Two** provides the letter sent to Hon Dr Shane Reti, Minister of Health, requesting an interview and accompanying attachments. **Appendix Three** is a copy of a briefing document provided to your office by NHPNZ on 15 February 2024 that sets out NHPNZ’s summary of their issues with the Dietary Supplements Regulations 1985 and their preferred solution.
4. Officials attending the meeting will be:
 - John McGrath, Director Priority Projects, Strategy Policy and Legislation
 - Tim Vines, Manager Therapeutics, Strategy Policy and Legislation.

Background and context

5. NHPNZ is the peak NHP industry body, representing 80% of the sector. In 2019, NHPNZ estimated the sector contributes \$2.3 billion to New Zealand's economy (including through wages, etc); the export revenue exceeds \$600 million, and the growth rate is 64% over the five previous years (equivalent to a Compounding Annual Growth Rate of 10%). Euromonitor International measured the global NHP market at US\$233 billion in 2022.
6. NHPNZ has advocated strongly for NHP reform since its inception in 2002. The Ministry of Health (the Ministry) has engaged closely with NHPNZ during past regulatory reform programmes and will continue to do so while developing new policy.
7. NHPs are widely used in New Zealand. A 2022 Consumer NZ survey found that 78% of people had taken a supplement in the past 12 months. More than half of those respondents (51%) stated they took supplements or natural remedies every day, and 25% of them took them a few times a week.

Current regulation of natural health products

8. Edible NHPs are currently regulated under the Dietary Supplements Regulations 1985 (under the Food Act 2014). In 2010, Medsafe was delegated powers and functions to administer them. These Regulations cover labelling and composition requirements, while the manufacture of dietary supplements is administered by the Ministry for Primary Industries under the Food Act. Many products claiming to be dietary supplements do not meet the definition under the Dietary Supplements Regulations but there is little enforcement as Medsafe has never received Crown funding for this activity.
9. Non-edible NHPs, such as skin creams and some dental hygiene products, are governed under the Consumer Products Group Standard 2020 (under the Hazardous Substances and New Organisms Act 1986), and are administered by the Environmental Protection Authority.

10. On its commencement, the Therapeutic Products Act 2023 would have repealed the Dietary Supplements Regulations and regulated all NHPs.

Issues

NHPNZ views on regulating NHPs

11. NHPNZ have set out their concerns with current regulation of NHPs in **Appendix Three**.
12. NHPNZ considers the current regulation of NHPs to be out of date, fragmented and unclear. There are two key issues that they consider contribute largely to an estimated loss of \$500 million in export earnings per annum:
 - a) export barriers – NHPNZ reports exporters cannot access important markets because the current regulations do not permit them to trade freely in importing countries, or on a competitive basis. For example, our existing domestic laws do not provide a mechanism to exempt export-only products from specific labelling and composition requirements. This makes it difficult for exporters to compete internationally.
 - b) an inability to make health benefit claims even when supported by robust scientific evidence (eg, 'calcium may help prevent osteoporosis when dietary intake is inadequate'). NHPNZ states that effort in research and development fails to achieve returns on investments due to the inability to make a wider range of health claims (including those permitted in competitor markets), thereby stifling innovation and investment.
13. NHPNZ is also concerned by the lack of clarity in the current regulatory regime. This makes it harder for businesses to comply with requirements, and for consumers to identify high quality products. There is also a concern about inconsistent risk-proportionality of regulations that result in overregulation.
14. Overall, NHPNZ considers that businesses waste time and resources trying to use a 'broken system'. In 2019, members identified the current regulations as a top barrier to further growth and innovation. They have consistently signalled that a consequence of no reform will be a loss of competitive edge and a potential move by significant businesses to operating offshore and a net loss to the NZ economy.
15. In NHPNZ's briefing, provided on 15 February 2024, they outline a proposed solution which would involve an amendment to the Dietary Supplements Regulation 1985 (**Appendix Three**). We can provide you with detailed advice on this proposal after this meeting.

Views of other NHP stakeholders

16. There are many other key NHP stakeholder groups, some of which hold divergent views on how to regulate NHPs. In general, exporters require a globally recognised and robust regime that aligns as much as possible with the regimes in comparable jurisdictions. Small domestic suppliers of NHPs and many importers, however, support minimal regulation. They consider products to be very low risk and state the compliance costs would threaten their businesses.
17. We recommended you meet with NHPNZ because it is the peak body for the NHP sector. Further to the discussions at your meeting with officials on Monday 12 February 2024, the Ministry can meet with other stakeholders in the NHP sector on your behalf. The Ministry

does not propose to meet with stakeholders until after Cabinet has considered your paper on progressing the repeal of the Therapeutic Products Act [H2024035378].

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Appendix 2 – Natural Health Products NZ letter to Hon Dr Shane Reti requesting a meeting

[Attached separately to maintain formatting]

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