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16th March 2012

Submission on Draft Proposal P293 – Nutrition, Health & Related Claims

Dear Sir/Madam

The Australian Self-Medication Industry (ASMI) is grateful for the opportunity to comment on the draft Food Standard 1.2.7. ASMI is the peak industry body representing companies who manufacture and supply non-prescription and complementary medicines, together with those companies who provide services to them.

In general we consider the draft clear and well-constructed, and that it achieves its aims.

However there is one area of concern to our member companies: the statement "suitable for diabetics." The status of this claim is not clear in the draft Standard and we advocate its addition to the Standard for the purposes of clarity and consistency.

The provision of, and clear labelling of, foods which are genuinely suitable for diabetic individuals is an important factor in public health. This will become ever more crucial given the rising incidence of diabetes in both Australia and New Zealand.

Addition of the statement to the Standard will clarify how and where the claim may be used, and will specify the required nutrient profile of any food permitted to carry that statement. This will ensure that food manufacturers can be confident in the requirements for manufacturing foods which are genuinely suitable for diabetics, and in their right to label and advertise them as such; and that diabetic individuals will be able to easily identify foods which will not compromise their health.

Please see the attached table for details.

Sincerely yours,

Ruth Kendon

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BETTER HEALTH THROUGH RESPONSIBLE SELF CARE



Attachment D – Template for submissions – Proposal P293 – Nutrition, Health & Related Claims

Table 1: Revised draft Standard 1.2.7

Submitter name: Ruth Kendon, Regulatory and Technical Manager – Complementary Medicines, ASMI.	
Does the revised drafting accurately capture the regulatory intent as provided in Attachment B? Please consider the clarity of drafting, any enforceability issues and the level of 'user-friendliness'. If not, please provide specific details in the table below. Ensure that the relevant clause number, schedule number or consequential variation item number that you are commenting on is clearly identified in the left column. Lines may be added if necessary.	
Clause number	Comment
Clause 2: Interpretation.	Currently certain foods in the marketplace carry the label statement, "suitable for diabetics." This statement may be classified as simply describing a property of a food, in which case it would or should be permitted for a food product which meets all the conditions of nutrient profiling. However this statement could potentially be interpreted as making a health or therapeutic claim simply because of the reference to persons with diabetes.
Clause 7: claims must not be therapeutic in nature.	Our members are concerned that the new Standard may inadvertently disallow the statement "suitable for diabetics", and that this may adversely impact upon public health. The products concerned meet the strictest Nutrient Profiling Score for reduced energy and reduced sugar foods. No statement is made implying that the food will affect the consumer's health status. The claim is simply that the food is free of a property which could be unsuitable for consumption by a diabetic person.
Clause 12 (1)(a): Nutrition content claims about properties of food not in Schedule 1 may only state that the food does or does not contain the property of food.	The statement "suitable for diabetics" does not appear in Schedule 1. Therefore if the statement is classified as a property and refers only to the presence of the property, ie its suitability for use by diabetics, this claim should be permitted.
Schedule	Comments
Schedule 1: Conditions for Nutrient Content Claims	The statement "suitable for diabetics" does not appear in Schedule 1. This leaves considerable uncertainty.
Schedule 2: Conditions for Permitted Health Claims	The statement "suitable for diabetics" does not appear in Schedule 2. If the claim is considered a health claim, it defaults to a high-level health claim and is therefore prohibited. This would not be of benefit to public health.
Consequential variations	Comments
Schedule 1: Conditions for Nutrient Content Claims	We propose, in the interests of clarity and of public health, that an additional entry "Suitable for diabetics" be made in Schedule 1. This could be grouped with Sugar or Sugars, Low, No Added or Free, and linked to suitable conditions and nutrient profiling requirements. This would eliminate confusion and spell out the appropriate nutritional parameters to ensure that a food which carries such a statement will in fact be suitable.