

17 December 2021

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Dear Sir/Madam

Attached are the comments that the New Zealand Food & Grocery Council wishes to present on the Call for Submissions – Application A1230: Very Low Energy Diets (VLED).

Yours sincerely

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Call for Submissions – Application A1230: Very Low Energy Diets (VLED)

**Submission by the New Zealand Food & Grocery
Council**

17 December 2021

NEW ZEALAND FOOD & GROCERY COUNCIL

1. The New Zealand Food & Grocery Council (“NZFGC”) welcomes the opportunity to comment on the *Call for Submissions – Application A1230: Very Low Energy Diets (VLED)*.
2. NZFGC represents the major manufacturers and suppliers of food, beverage and grocery products in New Zealand. This sector generates over \$40 billion in the New Zealand domestic retail food, beverage and grocery products market, and over \$34 billion in export revenue from exports to 195 countries – representing 65% of total good and services exports. Food and beverage manufacturing is the largest manufacturing sector in New Zealand, representing 45% of total manufacturing income. Our members directly or indirectly employ more than 493,000 people – one in five of the workforce.

THE PROPOSAL

3. Nestlé applied to amend the Australia New Zealand Food Standards Code (the Food Standards Code) to regulate foods for Very Low Energy Diets (VLED) currently in the Australian and New Zealand market in alignment with the *CODEX Standard for Formula Foods for Use in Very Low Energy Diets for Weight Reduction* (Codex STAN 203-1995). The application proposed regulation of foods for VLED by Standard 2.9.5 as food for special medical purposes (FSMP). FSMP partially or totally replace the daily diet and are recommended for use under medical supervision.
4. VLED are formulated for the dietary management of the overweight and obese and are developed to be used under medical supervision. They are used as a total diet replacement for a period of up to 12 weeks and provide 3344 kJ or less per day, whilst consisting of sufficient protein, fatty acids, carbohydrates, vitamins and minerals for safe and fast weight loss.
5. VLED were previously included in FSANZ Proposal P242, however were omitted at the Final Assessment Report (FAR) in 2012. Nonetheless, since 2012, imported and locally produced VLED have remained on the Australian and New Zealand market. VLED in New Zealand are covered by Standard 2.9.6 – *Transitional standard for special purpose foods*, however there is no applicable standard for the Australian market. An amendment would provide regulatory clarity and certainty for these products within the Australasian market.

COMMENTS

6. FSANZ is proposing to largely adopt the Codex STAN 203-1995 *Standard for formula foods used in very low energy diets for weight reduction*. We note that while the EU (in Regulation 2017/1798) provides for the compositional and information requirements for total diet replacement for weight control, this regulation is substantially different to Codex STAN 203-1995. FSANZ advises that adoption of the EU measures would require significant reformulation of products currently on the Australasian market.
7. We note that Codex STAN 203-1995 relied on somewhat different NRVs to those set for Australasia for VLED composition and that in four cases, the levels in Codex are below the NRVs for adult males in Australasia meaning that this could pose a risk of nutritional inadequacy. The FSANZ nutrition assessment, however, concluded that when combined with the fact that VLED generally had a limited period of use (around 12 weeks) and that use was under medical supervision, the Codex levels for nutrient composition posed a very low risk to Australasian individuals achieving nutritional adequacy.

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8. Several other nutrients were not regulated by the Codex Standard but were included within the EU 2017/1798 regulation and, when compared to the Australasian NRVs would be adequate. FSANZ therefore concluded that not setting any composition requirements for these nutrients would not pose risk to the nutritional adequacy of the Australasian population.
 9. In terms of risk management, FSANZ proposes to accommodate VLED in Standard 2.9.5 *Foods for Special Medical Uses*. To this end FSANZ is proposing to:
 - Add a separate definition of VLED and of 'very low energy food'
 - Remove paragraph 2.9.5—2(2)(a) which specifically excludes VLED from the Standard.
 10. FSANZ found that it was standard practice for VLED in Australasia to be accompanied by an information leaflet on use. In light of this, no requirement is proposed to be included in Standard 2.9.5. The provisions of Standard 2.9.5 already reflect specific sale and advertising restrictions and these are proposed to be applied to VLED so that sale is limited to medical practitioners, dietitians, medical practices, pharmacies or other responsible institutions.
 11. An extensive list of labelling and other the requirements that already apply to foods for special medical purpose will also apply to VLED including statements about use under medical supervision and several other directional statements. NZFGC supports the application of these requirements for consistency across this category of specialist products.
 12. In a couple of areas, additional requirements are to be applied (eg daily quantity of product to be consumed) and NZFGC considers these as sensible additions so long as they do not prevent the import of these very specialised products.
 13. Similarly, a number of requirements in the Food Standards Code will not apply to VLED such as claims and some nutrition information requirements as noted above.
 14. Overall, NZFGC supports the proposed amendments to the Food Standards Code to provide consistency and certainty across the Australasian market for VLED products.