



ACT
Government
Health

'Call for submissions – Proposal P293'
Food Standards Australia New Zealand
submissions@foodstandards.gov.au

Dear Madam/Sir

Call for submissions - Proposal P293 Nutrition, Health & Related Claims

Thank you for this opportunity to comment on the above Food Standards Australia New Zealand (FSANZ) consultation paper. I would like to provide the following comments in relation to the questions posed in the consultation paper.

The revisions to draft Standard 1.2.7 improve its clarity and reduce the ambiguity that was previously raised as a concern by stakeholders. The Health Directorate supports FSANZ's recommendation that all General Level Health Claim (GLHC) relationships be pre-approved by FSANZ. The use of pre-approved claim relationships will make health claims regulation simpler and less resource intensive to monitor and enforce. It will also be easier for industry to comply with this version of draft Standard 1.2.7 as it offers more certainty about the kinds of food that can carry certain claims.

Consistent with previous comments from the ACT, the Health Directorate considers the alternative option (industry self-substantiation of GLHC relationships) to be an unacceptable way forward for draft Standard 1.2.7. Industry self-substantiation would create an unacceptable level of burden for regulators and uncertainty for both industry and consumers, and as such, be incompatible with the *Ministerial Policy Guideline on Nutrition, Health and Related Claims*.

The GLHCs listed in the draft Standard appear to provide comprehensive coverage of the GLHCs currently in the marketplace. The proposed approach for approving further GLHC relationships through the normal FSANZ Proposals and Applications processes is also supported.

In terms of the approaches suggested in Section 8 of the consultation paper, the Health Directorate supports Option 3(a) – that fat-free and %-fat-free claims only be permitted on foods that meet the nutrient profiling scoring criterion (NPSC). The Health Directorate considers this to be the best way to provide adequate information relating to food to enable consumers to make informed choices and prevent misleading or deceptive conduct.

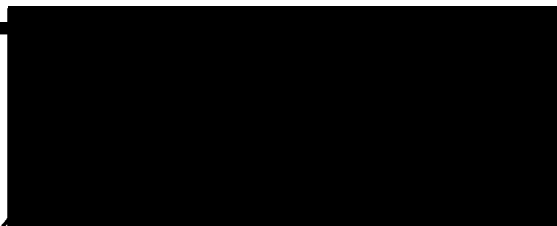
The ability of industry to make content claims on foods such as confectionary, highly processed sugary cereals and snack foods contradicts the intent of the draft standard and the legislative objectives on which it is based. It also operates contrary to current national efforts to promote the consumption of certain foods and advise moderation in the consumption of certain foods. The Health Directorate believes failure to appropriately regulate content claims will send conflicting messages to consumers, cause consumer confusion and undermine confidence in the food regulatory system.

Options 3(c) and 3(d) may also be acceptable. However, these options for limiting the sugar content of foods able to make a fat content claim would not be transferable to other content claims (e.g. a vitamin or fibre content claim). As regulating all content claims, not just fat content claims, is considered to be a necessary element of Standard 1.2.7, Option 3(a) is the superior option in the Health Directorate's view.

I would also like to bring to your attention Health Directorate concerns regarding a P293 webinar on 31 October 2011. At this webinar, FSANZ stated that they had, or were aware of, research that demonstrated that content claims do not strongly influence consumer purchasing decisions. Although requested at the webinar, the details of this research have not been provided to jurisdictions and are not discussed in the consultation paper. The Health Directorate is concerned that this may impact on the ability of stakeholders to make submissions that take into account all of the relevant evidence regarding content claims. This is particularly relevant as studies cited in the consultation paper (e.g. Gorton et al. 2010) indicate that content claims do influence consumer perceptions of food healthfulness, particularly in lower socio-economic and disadvantaged groups.

Thank you again for this opportunity to provide feedback on this consultation paper. Should you wish to discuss my comments further, please do not hesitate to contact John Woollard, Director, Health Protection Service on (02) 6205 1700.

Yours sincerely



Director-General
Health Directorate

29 March 2012