



Submission to FSANZ

**Proposal P293**

**Nutrition Health & Related Claims**

Submitted by

Campbell Arnott's Asia Pacific

30<sup>th</sup> March 2012

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## 1 **Introduction**

Campbell Arnott's appreciate the opportunity to comment on the latest consultation for Proposal P293, Nutrition Health and Related Claims dated 17th February 2012.

Campbell Arnott's believes that balanced nutrition is an essential component for reducing the risk of disease, and maintaining good health and overall wellbeing. Campbell Arnott's reiterates its support of the Australian and New Zealand Governments' development of a new health claims regulatory system to permit relevant, scientifically substantiated information to be communicated to consumers through the effective communication channels of the food industry. This will complement the activities of government and non-government agencies, health professionals and educators to improve the health of Australians and New Zealanders.

Campbell Arnott's have been consistent in our approach to this most important issue and we draw FSANZ to previous submissions made in response to development of this Standard. We remain unsupportive of Standard 1.2.7 in its entirety as proposed, and reject the validity of applying Nutrient Profiling Scoring Criteria (NPSC) across such a broad range of claims, potentially denying consumers relevant health information when making their purchasing choices. In opposing the inclusion of an NPSC in the standard we note it would restrict claims on individual foods based on whole of diet criteria which is illogical and not consistent with sound nutrition principles.

We also firmly believe that the standard, as proposed, fails to fully consider the proportional response model advocated by Blewett. While it is clear that aspects of food safety should be addressed by black letter regulation, and we support inclusion of High Level Health Claims within a regulated standard, our position is that Content Claims and General Level Health Claims should be covered under a co-regulatory code. Advocacy of a co-regulatory approach would be reflective of the Policy Principles developed by the ANZFRMC, specifically:

- a) Be cost effective overall, not more trade restrictive than necessary and comply with Australia's and New Zealand's obligations under the WTO Agreements;
- b) Contain a process of substantiation which aligns levels of scientific evidence with the level of claims along the theoretical continuum of claims, and at minimum costs to the community;
- c) ...be responsive to future trends and developments; and
- d) Provide for collaborative action among enforcement agencies, industry and consumers to optimise educational resources;

While we acknowledge the narrow scope of this round of consultation, we believe that such an important issue warrants additional comment in specific areas of concern. In particular we note that the last opportunity for stakeholders to comment on the full standard was seven years ago and substantial changes have been made to the

proposal since then. Therefore, we believe it necessary for a full review to be conducted, including the opportunity for a full public consultation on all aspects of the standard before gazettal of any part of this standard.

We also attach as an appendix, our previous submission for your reference.

## **2 Heart Health claims**

### **2.1 Vegetable Juice**

**Campbell Arnott's are strongly opposed to limiting claims on Vegetable juice based on the single fact that it is a juice.**

The standard specifically excludes vegetable juices from making general or high level health claims for heart health. Our belief is that many of the biologically active substances in vegetables including phytonutrients such as antioxidants, vitamins, polyphenols, carotenoids and lycopene are present in substantially equivalent quantities (excluding fibre) in the juice. Shenoy<sup>1</sup> reports that vegetable juice is a healthier choice and a convenient way to assist adequate dietary intakes of vegetables. When the population is consuming less than adequate intake of vegetables (average 3.3 of the 5 recommended serves<sup>2</sup>), juices can be an important means of topping up this intake. Campbell Australia produces V8 juices in its Shepparton (Victoria) plant, providing some 5,300T or 71 million additional serves of vegetables annually.

The explicit exclusion of vegetable juice from making health claims in relation to vegetable content and heart health has no reasonable basis, and we also reiterate our previous opposition to pre-approval requirements for such claims. Excluding vegetable juices from health claims that are based on adequate vegetable content is inconsistent with the intent of the standard and no substantive evidence has been presented to warrant this exclusion; in fact, the opposite is true.

1. Shenoy et al. Nutrition Journal 2010, 9:38 <http://www.nutritionj.com/content/9/1/38>

2. Australian Bureau of Statistics. (1999). National Nutrition Survey Foods Eaten Australia 1995 ABS Catalogue No. 4804.0 Canberra: Australian Government.

### **2.2 Wholegrains**

**Campbell Arnott's are concerned at the omission of Wholegrain in the context of health claims that may inhibit innovation in this area thereby reducing the availability of wholegrain foods in the diet.**

We note that in 2006, CSIRO drafted a proposal for a high level wholegrain claim. At that time the claim was rejected on the basis that the level of evidence was not "convincing". Notwithstanding our opposition to the inclusion of General Level Health Claims within the standard and our opposition to Standard 1.2.7 as it is drafted, given the health relationship was probable we would recommend the inclusion of a lower level general level claim commensurate with the "probable" level of evidence.

### **3 % Fat Free Claims**

Campbell Arnott's firmly believe that the current management of "% fat free" claims under the Code of Practice on Nutrient Claims is adequate, as evidenced by a high level of compliance on those products currently in market and we believe additional regulation is not warranted by sufficient evidence of harm.

Campbell Arnott's supports the FSANZ view that singling out one specific nutrient as additional criteria, such as sugar, for making a claim is inappropriate. Furthermore, in line with the Blewett model of a proportionate response, Nutrient Content Claims should not be held to offer the same "promise" of health claims and should be treated as statements of facts governed by the requirements of the Australian Consumer Law.

Other additional qualifying criteria, such as NPSC would place additional and unnecessary burden on manufactures to determine eligibility for factual statements of % Fat Free Claims, and would deny consumers information that may assist when making choices between like products.

Arnott's produces a range of cracker products that make a 97% fat free claim. These include Salada, Jatz and Savoy. The on pack claim helps differentiate these products from the standard range. Application of the NPSC to these products would require us to remove the claims, impacting our ability to communicate this product differentiation with our consumers.

Campbell Arnott's believe that the current industry code of practice on nutrient claims should continue to be the reference document unless firm evidence can be presented warranting additional regulation.

Notwithstanding the comments above, in the absence of any further risk assessments and subsequent consultations being conducted, Campbell Arnott's would support option 2, a model that reflects current claim criteria managed through a code of practice.

### **4 Standard Formatting**

While formatting is significantly clearer than previous drafts, Campbell Arnott's believe some ambiguity still exists, for example in relation to endorsements and endorsing bodies.

We seek additional clarification to ensure not for profit research organisations funded in part by industry membership, such as the Grains and Legumes Nutrition Council, should be allowed to act as endorsing bodies in relation to health and nutrition claims. Without such financial support, the continued research and development of nutrition information and improved product nutrition may never be realised.

Further, the standard does not provide adequate assurance that claims currently in market, but not included in the standard, will be dealt with in a timely manner over the 2 year transition period.

## **5 Conclusion**

Campbell Arnott's is a responsible and innovative manufacturer of safe and wholesome food employing over 3000 people across Australia and New Zealand and invests significant resources towards improving the nutritional value of products it manufactures.

We support the development of a health claims framework that incorporates appropriate, enforceable regulation in conjunction with sound science and self regulatory approaches that ensures ongoing innovation and ultimate nutritional benefits for consumers.

## **Appendix**

Campbell Arnott's Submission to FSANZ CONSULTATION PAPER FOR FIRST  
REVIEW PROPOSAL P293 NUTRITION, HEALTH AND RELATED CLAIMS  
15th May 2009

**Submission to FSANZ**

**CONSULTATION PAPER FOR FIRST REVIEW**

**PROPOSAL P293**

**NUTRITION, HEALTH AND RELATED CLAIMS**

**Submitted by:**

**Campbell Arnott's Asia Pacific**

**15<sup>th</sup> May 2009**

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# 1 Executive Summary

Campbell Arnott's welcomes the opportunity to comment on the Consultation Paper for First Review for Proposal P293 Nutrition, Health and Related Claims.

Campbell Arnott's supports the development of a new Standard for nutrition, health and related claims that provides a credible, safe and useful system for consumers, enforcement agencies, the food industry and regulators to use and manage health claims.

Campbell Arnott's does not believe that the FSANZ preferred option of pre-approval of GLHC relationships address these key imperatives and strongly opposes adoption of Option 2 for the following reasons:

- Lack of confidentiality for submission of new GLHC will severely impact innovation by reducing first to market advantage for new technologies.
- Lengthy timeframe for review will be costly and adds further disincentives to an already complex and lengthy product development process.
- Enforcement issues are not resolved given proposed relationship wording can be ambiguous and would be left to state authorities to determine if a claim was valid.

A more detailed explanation of our concerns is included in section 3 of this submission.

The revision of the text and structure of draft Standard 1.2.7 has improved clarity over previous draft versions of this standard. However, significant concerns remain about the recommended approach.

Campbell Arnott's recommends the following:

- That Option 2 not be adopted.
- That FSANZ revert to Option 1 and remove the Nutrient Profiling Scoring Criteria (NPSC) for GLHC, allowing such intermediate level claims to be supported by science based self substantiation. Application of a whole of diet criteria to individual foods is nutritionally flawed and does not take into account consumers' needs. It oversimplifies what is a complex and often individual issue. However, without the removal of the NPSC for GLHC, Campbell Arnott's would not support Option 1 in its current form.



## **2 Introduction**

Campbell Arnott's believes that balanced nutrition is an essential component for reducing the risk of disease, and maintaining good health and overall wellbeing.

Advances in scientific understanding continue to confirm the role that nutrition, food and lifestyle factors play in reducing the risks of diet-related chronic diseases such as obesity, heart disease, stroke, high blood pressure, cancer, diabetes and osteoporosis.

Extensive surveys indicate that consumers across our key markets share our belief that food choice, good nutrition and a healthy lifestyle play an important role in their wellness management; many feel that food and diet are important tools to improve their quality of life (Health Focus, 2005).

Campbell Arnott's supports the Australian and New Zealand Governments in the development of a new health claims regulatory system to permit relevant, scientifically substantiated information to be communicated to consumers through the effective communication channels of the food industry. This will complement the activities of government and non-government agencies, health professionals and educators to improve the health of Australians and New Zealanders.

Any new health claims regulatory system should encourage communication of truthful information about products to help consumers make informed choices leading to dietary change, in turn leading to improved nutrition and health outcomes.

### **3 Review and Recommendations**

#### **3.1 Substantiation of food-health relationships for use as a basis of General Level Health Claims**

##### **3.1.1 Campbell Arnott's supports Option 1 with some amendments**

Campbell Arnott's recommends that Nutrient Profiling Scoring Criteria be removed from GLHC's as applying the NPSC inadequately considers the diversity of foods and further restricts the use of credible information for consumers.

Campbell Arnott's is supportive of science based substantiation from recognised authoritative sources and recommends guidelines be developed for acceptability of such sources taking into consideration factors such as level of expertise, breadth of expertise and scientific journal publication.

We wish to stress that Campbell Arnott's would only support Option 1 with the amendments outlined above. Campbell Arnott's, like the Australian Food and Grocery Council, cannot support Option 1 in its current form.

#### **3.2 Campbell Arnott's does not support Option 2 for the following reasons**

##### **3.2.1 Whole of diet criteria should not be applied to GLHC**

Applying whole of diet criteria to single foods, fails to take into consideration micronutrients and renders many foods ineligible to carry GLHC. No single food provides all the nutrients required for good health and applying whole of diet criteria does not allow consumers to assess a particular food in the context of their total diet.

##### **3.2.2 Confidentiality issues will impact innovation negatively**

The proposed process of applying for a pre-approved GLHC is an open application process whereby applications submitted by food manufacturers and other stakeholders will be communicated widely during consultation.

There will be a period of up to nine months for competitors to become aware of an application and plan to use it on their own products on gazettal. There will be no first to market advantage and a manufacturer's plans for product development related to the GLHC will be known in

advance. This will stifle product innovations which have nutrition/health advantages for consumers.

### 3.2.3 Costly and lengthy process of pre-approval

An application to FSANZ will require considerable resources from both a personnel and financial perspective. Apart from these factors the nine month waiting period to establish if the GLHC has been approved or not, will be a major disincentive for applications.

Firstly, if the GLHC has been approved, there has been a hold on final product development and communications activities whilst the approval process occurs. It is difficult to redirect human resources and factory trials during the waiting period. As soon as the GLHC is approved, the manufacturer will want to include it on packaging and in other communications. The risk of having the GLHC rejected will make prior production of labelling and media plans untenable. Secondly, those manufacturers who take this risk will face costly labelling changes if rewording is required to incorporate specific conditions.

The result is that the timing for use of the new GLHC will be much more than nine months as work will need to re-commence on labels and communications post-approval.

For example, the revised draft would not permit wholegrain products to make GLHC based on their wholegrain content, necessitating a lengthy approval process despite substantive and supportive evidence showing the health benefits of wholegrain in conjunction with a balanced diet. This again is inconsistent with the overarching objective of delivering health benefit messages to the Australian population.

### 3.2.4 Enforcement issue not resolved with pre-approved GLHC's

Campbell Arnott's acknowledge that it is not feasible to develop exact wording for GLHC's as different consumers are targeted with different products and communications need to reflect this accurately. However, this will result in an uncertain enforcement environment as the state jurisdictions may have inconsistent interpretations of the new Standard 1.2.7 and the appropriateness of varied wording used by manufacturers.

## **4 Other comments**

### **4.1 Confusion between GLHC and HLHC objectives**

Fruit and vegetable products, for example, are required to meet the same criteria for both GLHC and HLHC. This seems inconsistent with the premise that GLHC are for general information and therefore should not disallow healthful products such as fruit and or vegetable juices for GLHC (despite their inclusion in the Australian Guide to Healthy Eating).

### **4.2 Consistency with outcomes of Food Labelling Policy Review**

Campbell Arnott's suggests that the Food Labelling Policy Review currently underway will impact on the development of Standard 1.2.7. In this context we recommend that FSANZ undertake to defer any further work on P293 until after the release of the Food Labelling Policy Review to take account of its recommendations.

## **5 Conclusion**

Campbell Arnott's supports FSANZ in the development of a framework for health claims which is robust enough to protect public health yet flexible enough to allow increased communication of benefits to consumers and increased product innovation.

Campbell Arnott's welcomes the opportunity to comment on the Consultation Paper for First Review. The amendments and recommendations detailed above in relation to the standard speak to the policy principles and provide a sound basis for moving forward. We would be happy to provide any further information required.