



PUBLIC HEALTH ASSOCIATION
of Australia Inc
ABN 41 062 894 473

Submission to Food Standards Australia and New Zealand on Proposal P293 – Nutrition, Health and Related Claims

1st February 2008

The Public Health Association of Australia (PHAA) welcomes this opportunity to provide a submission on the proposal P293 – Nutrition, Health and Related Claims. The PHAA is a forum for the promotion of the health of the public as well as being a professional resource for public health personnel. The Association takes a strong interest in food and nutrition issues, particularly where these have potential to have public health effects.

For further information contact:

Michael Moore
Chief Executive Officer
Public Health Association of Australia
Phone 02 6285 2373 (w)
Email mmoore@phaa.net.au

1. Claimable food criteria or nutrient profiling scoring criteria for claims about vitamins and minerals

PHAA does not agree with any of the options put forward by FSANZ and would like to propose an alternative option that requires all foods carrying nutrient content claims to meet the Nutrient Profiling Scoring Criteria (NPSC). This is justified by:

- concern regarding the limited evidence provided that consumers are not confused between nutrient content and general level health claims;
- the fact that nutrient content claims have an implied health claim via limited consumer nutrition knowledge, e.g. a claim that a food is a good source of calcium usually implies that food is beneficial for strong bones and teeth and for preventing osteoporosis;
- there is a considerable level of knowledge around safe levels of intake of vitamins and minerals, but a concerning lack of knowledge around safe levels of intake of other substances (e.g. such as ginkgo biloba) which are also classed as nutrients in the proposed standard;

- providing consistency with all other claims for both consumers and regulators;
- providing better consistency with dietary guidelines and nutrition policies, thereby supporting nutrition educators as well as the Health Claims Policy agreed to by Food Regulation Ministers in 2003;
- the food industry can already make nutrient content claims in the nutrition information panel on any food, thus can inform the consumer without the unnecessary persuasion of front of pack marketing which can be used to heavily promote poor dietary choices;
- 10% of the RDI is a very easily attainable standard for making a nutrient content claim.

Should FSANZ not accept our alternative option, as a minimum, PHAA would support the retention of the concept of 'claimable foods' within decision-making processes. This concept is one of the few remaining provisions within the food regulatory system that helps to protect the nutrient integrity of the food supply and hence is a proactive risk management approach for guiding decisions associated with food composition and/or labelling. Further, PHAA recommends the claimable foods system is reviewed and expanded to include substances other than vitamins and minerals (e.g. ginkgo biloba).

2. Criteria for nutrition content claims about saturated fatty acids as a proportion of total fatty acid content

PHAA recommends that this sort of claim not be allowed for the present. This is because in our experience consumers are still totally confused about fat and the different types of fatty acids, and are rarely able to distinguish the difference between them. This sort of claim could be added to the standard once we have had a chance to assess how consumers will cope with basic, non-comparative/proportional claims. PHAA is also concerned about the type of food categories that would be allowed to make fatty acid proportional claims under FSANZ's proposed system, e.g. confectionery, ice cream, cakes and biscuits. This again does not support dietary guidelines or the efforts of nutrition educators in promoting healthy eating.

Should FSANZ insist on allowing proportional fatty acid claims, PHAA would support a modified Option 4, i.e. these claims are limited to foods that meet the NPSC. PHAA believes that foods containing proportionately 28% saturated and trans fat is very high in comparison to usual dietary recommendations that total diets consist of 10% saturated and trans fatty acids.

3. Criteria for free of trans fatty acids nutrition content claim

PHAA believes that any free from trans fat claims will further increase consumer confusion about fat and should not be allowed. Such claims are likely to be similar to cholesterol free claims that have a history of appearing on foods that don't naturally contain cholesterol, thereby leading consumers to believe misnomers such as one brand of olive oil being better than another because of a large print, front of pack nutrition content claim.

4. Substantiation of food health relationships for supporting general level health claims

PHAA appreciates FSANZ's efforts to refine the substantiation process and makes the following additional comments:

i) any substantiation process should be based on the totality of evidence, not just 1 or 2 emerging studies;

ii) Method 3 –

- should require more than 2 corroborating sources, as we would need to do in professional literature to substantiate conclusions regarding a particular issue.
- FSANZ should provide a list of suitable textbooks and add to that list on a regular basis, rather than leave it to the industry to determine who is a specialist in a particular topic.

iii) Method 4 –

- if FSANZ proposes (and we agree) that only a few internationally recognised bodies should be acceptable for conducting rigorous scientific reviews to support claims, and those found in general scientific literature are not suitable for use in method 3, how can they deem a systematic review completed by a submitter as acceptable for method 4? PHAA would suggest some reputable, independent scientific organisations be listed as suitable for conducting reviews for submitters. In theory, this should not cost industry any extra, as it is likely they would need to outlay funds to do such a review anyway.

Other issues

PHAA is concerned that a number of issues that have been previously raised are not addressed in this current proposal. These include:

- Enforcement – there needs to be an appropriate enforcement strategy in place to ensure that offenders are identified and penalised accordingly.
- Communication strategy and education campaign – a communication and education strategy is essential in order to prevent consumer confusion.
- Endorsement programs and trademarks – it is still necessary to consider how these will be regulated as consumers do not necessarily see these as any different to health claims.
- Biologically active substances – PHAA remains concerned about the use of nutrition content claims for biologically active substances and that, given the lack of knowledge about many of these substances, claims can be made based on 10% of recommended amount.
- The PHAA remains concerned that infant foods are included in the standard as foods that nutrition content and or health claims can be made on, and recommend these be exempt.