



**Nestlé**

Good food, Good life

Nestlé Australia Ltd

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## **Introduction**

This submission is made on behalf of Nestlé Australia Ltd and Nestlé New Zealand Limited (Nestlé).

Nestlé is a manufacturer and importer of a wide variety of foods for the Australian and New Zealand markets and is globally one of the largest manufacturers of food. Nestlé manufactures a formulated supplementary sports food that is sold in Australia.

Nestlé welcomes the opportunity to provide comments in response to Proposal 1010 - formulated supplementary sports food (FSSF). We thank Food Standards Australia New Zealand (FSANZ) for their consideration of the comments, issues and views raised in this submission.

## **Comments:**

Nestlé will provide targeted comments to Q5, Q16 & Q19 in this submission.

***Q5. Would a tiered approach to regulation based on composition improve public health and safety for consumers, while allowing for innovation (e.g. provisions for 'high risk' substances, restriction on sale, differing labelling requirements or compositional deviation)? If so, how could it look? How could high, medium and low risk products be differentiated? What requirements could apply to each and why (e.g. pre-market assessment, compositional and labelling requirements)?***

Nestlé considers that there is already a regulatory framework in place to assess new ingredients and permitted forms and notes the on-going review happening for P1024 (Revision of the Regulation of Nutritive Substances & Novel Foods) to improve the status quo. If Q5 is implying a new regulatory framework for composition in the vertical FSC 2.9.4 standard, Nestlé is unsure if this is the best pathway and avenue to address the issues raised. For example, could over-consumption risk be addressed elsewhere through targeted education? Pre-market assessment principles already have an existing framework and we are unsure if a specific approach for Sports foods in a product standard is warranted at this stage.

In terms of product categorization regarding high, vs medium, vs low risk – firstly this would set a new precedence in the Code and we would question for already permitted nutritive substances, what would qualify placing them into such categories? And even if warranted, we would consider in terms of classifying the risk level, it is either a risk, or it is not. So, the 'medium' risk approach is not something we consider may be useful.

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Lastly, Nestlé do not support a restriction for sale. The only other special purpose food that has a restriction for sale are foods for special medical purposes (FSMP). Sports foods do not have the same target population or risk as FSMPs, some of whom may have compromised health, so we would question why this restriction is warranted.

***Q16. Please discuss whether you think the existing labelling requirements for sports foods enable consumers to make informed choices. Please provide reasons for your view.***

Nestlé does not support that existing labelling requirements enable consumers to make informed choices when selecting sports foods to suit their specific needs.

The definition of a formulated supplementary sports food means a product that is specifically formulated to assist sports people in achieving specific nutritional or performance goals. Currently, clause 2.9.4-7 prohibits information on product labels that include an express or implied representation that relates any property or proposed use of the food to enhanced athletic performance or beneficial physiological effects.

The prohibition imposed by clause 2.9.4-7 works in opposition to the Policy Guideline<sup>1</sup> on intent of Part 2.9 – Special Purpose Foods of the Australia New Zealand Food Standards Code, by prohibiting the information that can be provided through labelling and advertising of formulated supplementary sports foods to assist consumer understanding of the specific nature of the food and intended special purpose of the food; which by definition is to assist sports people in achieving specific nutritional and performance goals.

Formulated supplementary sports foods contain permitted vitamins, minerals and nutritive substances that have beneficial effects some that are appropriate for Sports foods can be found in FSC 1.2.7. For example, magnesium has a specific health effect<sup>2</sup> 'contributes to a reduction of tiredness and fatigue' which would be an appropriate post workout benefit to inform consumers on the label of a formulated supplementary sports food containing magnesium.

The current status quo on claims severely limits both the information that could help consumers make informed choices to suit their specific nutritional requirements and performance goals, and the innovation in formulated supplementary sports foods, which could improve and expand the range of products for people who partake in exercise.

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<sup>1</sup> [Policy Guideline on the intent of Part 2.9 of the Code - Special Purpose Foods.doc \(foodregulation.gov.au\)](#)

<sup>2</sup> S4-5, Food Standards Code



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