



PO Box 76202
Manukau City
Manukau 2241
New Zealand

30 March 2012

Manager

Application Assessments

Food Standards Australia New Zealand

PO Box 10559
The Terrace
Wellington 6143
New Zealand

Email: submissions@foodstandards.gov.au

Dear Sir/Madam

Frucor Beverages Limited welcomes the opportunity to make a submission on the Consultation Paper for **Proposal P293 Nutrition, Health & Related Claims**. It also wishes to acknowledge the extension period given for submissions up to 30 March, 2012. Not only has this been useful for us to adequately consult with colleagues within our business and more widely within the food industry, it has allowed us to review our position to ensure that there is consistency in rationalisation, and recognition of the impact that the proposed draft standard 1.2.7 will have.

Yours sincerely

Jennifer Yee Collinson

Nutrition & Claims Manager, NZRD

Frucor Beverages Limited

Frucor Beverages makes the following general comments:

Frucor does not support Standard 1.2.7. as drafted, in opposing the requirement for pre-assessment of General level health claims and the removal of self-substantiation of general level health claims.

We believe that this will be costly not only for FSANZ to administer but also impact on the speed of innovation. The food industry already has significant challenges to remain competitive in the current tough economic climate. This backward step, will no doubt delay and set us on the back foot when competing trans-tasman. In a consumer environment where the future of our well-being relies on a balance of informed choices, the responsibility to provide useful, relevant and substantiated nutrition and health information on products is a shared one. Food industry standards should provide guidance in this area, not road-blocks which impede this transfer of knowledge around the food and beverages produced within Australasia. Our world class products are known for high integrity, quality and safety. We are also known for our conservatism in food legislation and that has set us in good stead as trading partners. We do not wish to be known as conservative innovators by returning to prescriptive food regulations.

The beverage sectors in NZ and Australia have their respective industry bodies - the New Zealand Juice and Beverage Association and the Australian Beverage Council. Both actively engage with each other and with members to ensure a high standard of compliance for beverages manufactured to the requirements of food standards code. In New Zealand the Industry Compliance Committee regularly and randomly selects beverages for label evaluations and compositional testing. Any non-compliance issues are addressed directly with the manufacture and an agreed course of action is undertaken within an appropriate time frame. Frucor Beverages is fully supportive of this example of industry best practice.

The Australasian beverage industry is unique in that it does operate within its own voluntary code of practice and is therefore a good example of an industry which is self-regulating within a proven governance and administrative framework. Both the NZJBA and its Australian counterpart operate with active Technical Advisory Groups (TAG's) who address many of the issues that arise, including compliance to the food standards code, and already have a proactive role in providing FSANZ with feedback on regulatory impact as well as applications for the development of new standards, e.g. the formulated caffeinated beverage standard was initiated by this sector group.

Template for submissions – Proposal P293 – Nutrition, Health & Related Claims

To assist us in compiling submissions, please complete the tables below.

Table 1: Revised Draft Standard 1.2.7

Submitter name: FRUCOR BEVERAGES LTD	
<p>1. Does the revised drafting accurately capture the regulatory intent as provided in Attachment B? Please consider the clarity of drafting, any enforceability issues and the level of 'user-friendliness'.</p> <p>Frucor Beverages opposes the pre-approval of general level claims as this would impose further time and cost of the approval system. Frucor would support the option of self-substantiation for general level claims as a practical and feasible approach for industry.</p> <p>Frucor also supports an extension of a transition period to 4 years to enable FSANZ to assess new food-health relationships that are yet to be approved. This would also allow time to assess the EU proposed claims for suitability within the Australasian context.</p> <p>We are also concerned that under the changes to the draft standard since the 2009 consultation, that educational information on the diet is to be regulated. The current non-regulatory approach allows proactive industry members like ourselves, to be supportive in promoting national nutrition guidelines via working groups such as the NZ Fruit & Vegetable Alliance which is comprised of health professionals and scientists working collaboratively to provide practical tips and know-how to consumers. The government does not have the funds to enable this work to be resourced and it is left to industry to support and communicate healthy eating messages in public forums and consumer media. Should this be required to be regulated, there is a high risk that the consumer benefit would be lost.</p> <p>If not, please provide specific details in the table below. Ensure that the relevant clause number, schedule number or consequential variation item number that you are commenting on is clearly identified in the left column. Lines may be added if necessary.</p>	
Clause number	Comment
Schedule	Comments

Consequential variations	Comments

Table 2: Fat-free and % fat-free claims

Submitter name: FRUCOR BEVERAGES LTD	
Question	Comment
<p>2. What evidence can you provide that shows consumers are purchasing foods of lower nutritional quality because they are being misled by fat-free or % fat-free claims?</p> <p>FSANZ is primarily interested in the substitution of foods of higher nutritional quality with foods of lower nutritional quality which have fat-free claims. Substitution within a general food group (e.g. choosing a different confectionery product) is of lesser importance.</p> <p><i>(Note: Please provide documented or validated evidence where possible)</i></p>	<p>Frucor's product portfolio consists predominantly of water based non-alcoholic beverages. We have a considerably small range of dairy based beverages and we distribute a well-known liquid cereal breakfast product range (labelled as formulated supplemented food) which has an average fat content of 1.5% and claims 98.5% fat free. It is marketed as a liquid breakfast to have on-the-go and is an alternative to cereal and milk. For consumers of this product, it is in an on-the-go convenient, portable format where the alternative is to go without breakfast.</p>
<p>3. Do you support option 1 (status quo), option 2 (voluntary action through a code of practice), or option 3 (regulate with additional regulatory requirements for fat-free and % fat-free claims)? Please give your reasons.</p>	<p>Frucor supports Option 1 Status Quo and opposes the inclusion of "fat-free" and "% fat free" claims to be regulated in draft Standard 1.2.7.</p> <p>The status quo option allows product innovation and broad consumer choice. The majority of companies that are current producing mainstream products with fat free and %fat free claims are doing so to provide alternative choices to full fat dairy beverages.</p> <p>Some of these % fat free options are</p> <p>a) already lower sugar e.g. less than 5% sugar compared to the standard product at 7.4% sugar (and noticeably less than 10 %).</p> <p>b) achieving sugar reduction by using the natural sweetener Stevia. There has been a strong trend in beverages with the replacement of sugar with non-nutritive sweeteners which are also natural.</p> <p>c) available only in portion controlled (250ml or 350ml) units rather than in larger multi-serve volumes.</p> <p>We believe there is already a responsible food industry</p>

	<p>and many members with trained health professionals involved in the teams managing the product development projects for fat free and % fat free products. They recognise that the level of sugar added to allow these products to be palatable may be an issue for some people and that is why these are produced in portion controlled pack formats.</p> <p>Other options are seen as costly over-regulation for both industry and government and of no additional benefit to consumers.</p>
<p>4. Please comment on the possible options for additional regulatory requirements for fat-free and % fat-free claims (option 3) (refer section 8) as follows:</p> <p>a. Which option do you support and why?</p> <p>b. What is an appropriate sugar concentration threshold for options 3(b) and 3(d)? Where possible, provide information and evidence to support your suggested threshold value.</p> <p>c. Are there other suitable options for additional regulatory requirements for fat-free and % fat-free claims? Please describe.</p>	<p>Frucor opposes any additional regulatory requirements for fat free and % fat-free claims.</p> <p>It opposes the introduction of sugar concentration thresholds as these could be confusing for and likely to mislead the consumer. There are numerous health and well-being programmes which are providing and empowering consumers to make informed choices based on label information which is already mandated. Sugar content information is clearly displayed on every Nutrition Information Panel for manufactured food and beverages and often highlighted again on Front of Pack by companies who have volunteered to provide %Daily Intake information using the Thumbnail device.</p>