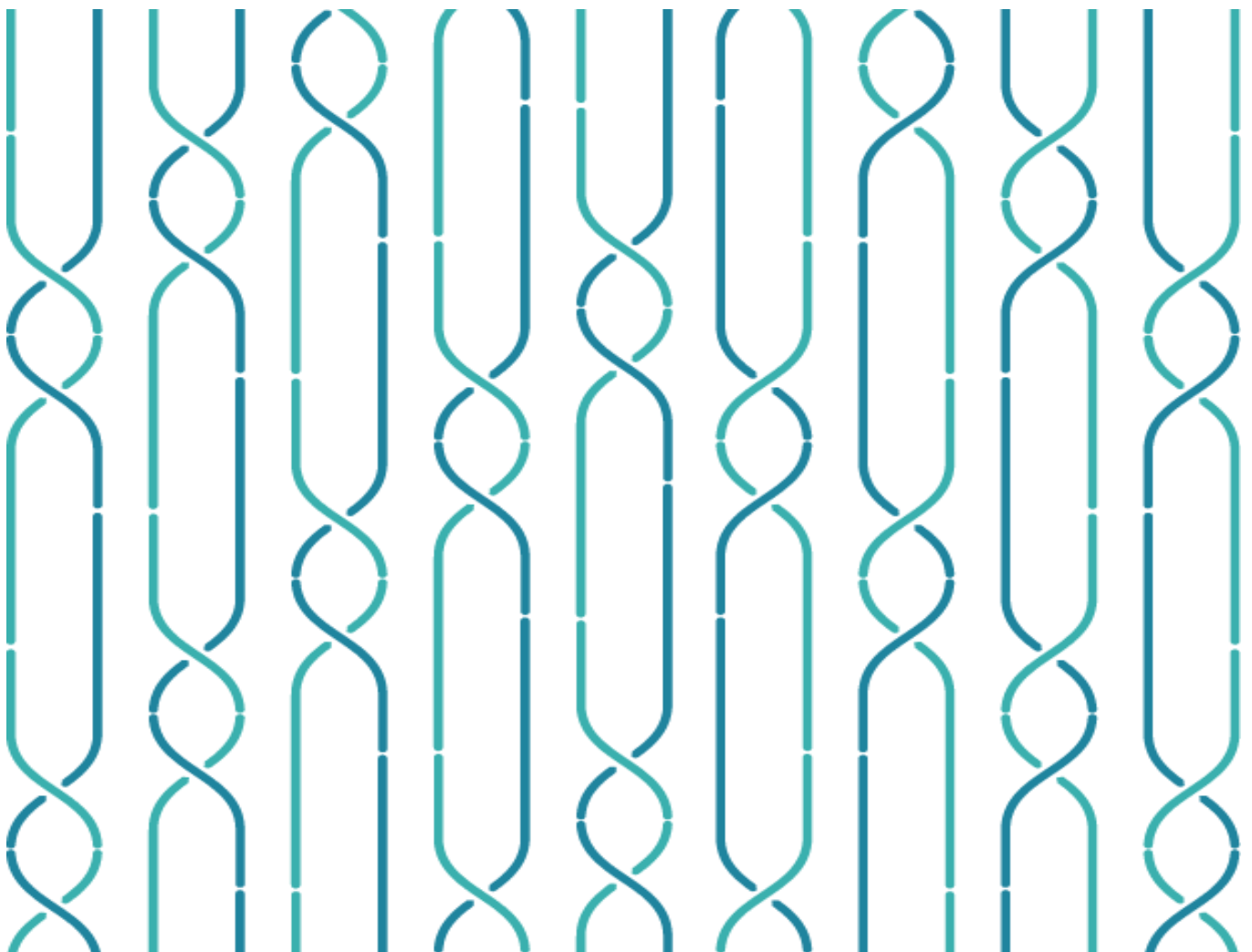




Public Health Agency | Te Pou Hauora Tūmatanui, Ministry of Health | Manatū Hauora Submission

**Food Standards Australia New Zealand
Second Call for Submissions on Proposal P1028: Infant
Formula**

7 July 2023



Submission on Food Standards Australia New Zealand (FSANZ) Second Call for Submissions – Proposal P1028: Infant Formula.

The Public Health Agency | Te Pou Hauora Tūmatanui (PHA) within the Ministry of Health | Manatū Hauora (the Ministry) provides this submission.

The Public Health Agency

Established on 1 July 2022, the PHA is a branded business unit within the Ministry. The PHA provides public health leadership, both at domestic and global levels, across the health and disability system and influences the wider determinants of population health to enable people, their whānau and their environment to be healthy.

Introduction

This submission provides feedback on aspects of FSANZ's draft variations to the Australia New Zealand Food Standards Code (Attachment A), that are within the scope of the Ministry's work.

As breastfeeding is a key determinant of public health and infant formula products are a substitute for breast milk, the Ministry is particularly interested in the ways that infant formula products are represented in the market. This is both in comparison to breast milk and other infant formula products (e.g., follow-on formula).

Our submission is structured by providing the relevant excerpt from the proposed draft variations, followed by our feedback.



PHA feedback on specific provisions within the proposed Food Standards (Proposal P1028 – Infant Formula) Variation

Division 3 Labelling and packaging requirements for infant formula and follow-on formula

FSANZ Draft Variation:

2.9.1–15	Representations about food as infant formula or a follow-on formula
(1)	A food may only be represented as infant formula or follow-on formula if it complies with this Standard.
(2)	A food represented as infant formula or follow-on formula must not be also represented as another food.
	Example A food represented as infant formula must not be also represented as, among other things, follow-on formula, a special medical purpose product for infants, or a formulated supplementary food for young children.

Feedback:

The Ministry understands the intent of section 2.9.1-15 (2) is to ensure product differentiation between infant formula products to avoid any risk of confusion between infant formula and follow-on formula. The Ministry is concerned that the new provision does not capture this intent and its application is also unclear.

Specifically, it is unclear which labelling aspects, if any, this clause relates to beyond use of the prescribed names for infant formula and follow-on formula. The Ministry urges FSANZ to align with the labelling requirements used by international standard setting bodies, Codex Alimentarius and the European Union, to prevent cross-promotion.

The Ministry notes that both Codex Alimentarius and the European Union require follow-up formula to use different text, images and colours for their labelling so that a clear distinction can be made between infant formula and follow-up formula.



FSANZ Draft Variation:

2.9.1–22	Requirement for warning statements and directions
	<i>Required statements on use</i>
(2)	For the labelling provisions, the required statements for infant formula and follow-on formula are ones indicating that:
(a)	for infant formula—the infant formula may be used from birth; and
(b)	for follow-on formula—the follow-on formula should not be used for infants aged under the age of six months; and
(c)	for infant formula and follow-on formula—it is recommended that infants from the age of six months should be offered foods in addition to the infant formula or follow-on formula. Note The labelling provisions are set out in Standards 1.2.1.
	<i>Location of warning statements and required statements</i>
(3)	The statements required by paragraphs (2)(a) and (b) must appear on the front of the package of the product.

Feedback:

With regards to section 2.9.1-22 (2) (b), the Ministry suggests reframing this as a positive statement as it is an instruction for use rather than a warning statement (i.e., ‘the follow-on formula may be used from the age of six months’).

The Ministry recommends that the text in 2.9.1-22 (2) (b) become a requirement under warning statements, Section 2.9.1-22 (1), but only for follow-on formula.

2.9.1–28	Requirement for use of stage numbers
(1)	The following numbers may be used on the label on a package of infant formula or follow-on formula to identify for consumers that product is infant formula or follow-on formula:
(a)	if the product is infant formula—the number ‘1’; and
(b)	if the product is follow-on formula—the number ‘2’.



Feedback:

The Ministry would prefer if stage numbers were not permitted because they indicate a progression, creating the impression that there are nutritional benefits in moving from Stage 1 to Stage 2 and beyond. This is inconsistent with New Zealand's infant feeding guidelines¹.

At the same time, the Ministry acknowledges the findings from FSANZ consumer research that stage numbers help consumers differentiate between infant formula and follow-on formula. Although out of scope of this proposal, the Ministry considers that an alternative approach to addressing the use of stage numbers to promote the entire product range, is to prohibit the use of stage numbers 3 and 4 on formulated supplementary foods for young children (also known as toddler milk drinks).

ENDS.

¹ Ministry of Health. 2021. Healthy Eating Guidelines for New Zealand Babies and Toddlers (0-2 years old). Wellington: Ministry of Health.

