

**Proposal P293 Nutrition, Health and Related Claims
Summary of submissions to the Draft Assessment Report**

3. CONDITIONS FOR MAKING CONTENT CLAIMS - PERCENTAGE DAILY INTAKE (%DI) LABELLING

Submitter	Group	Comments
Adecron Food Tech Consulting	Industry – New Zealand	<ul style="list-style-type: none"> • Agree with the requirement to state %DI when claiming a nutrient content. An example of the benefit to consumers is that if they want to get 25% of daily calcium, they can choose the product that provides them with 10%, 25% or 50% of their daily energy intake. It is not beneficial to have to consume 200% of your energy in order to get 100% of calcium from a major contributing food group. • This regime will reveal products that have a less healthy balance, although it is possible to choose a product with a negatively skewed amount and make up for it with another product that has a positively skewed amount. • An example would be recent advertising highlighting how good cheese is for protein and calcium, while conveniently not mentioning that cheese is a high fat/energy dense food. • Percentage intake for adults is a realistic reference point for daily value. The adult amount is consistent and will appear on all products with nutrition claims for easy comparison. • For children’s foods it could be argued that different standards should be used, but as they have different Recommended Dietary Intakes (RDIs) and different energy intake needs for different ages, it makes that totally unfeasible to use.
Australian Food and Grocery Council (AFGC) (Supported by Nestle Australia Ltd and Nestle NZ Ltd, Unilever Australasia, George Western Foods Limited/AB Food and Beverages, Simplot Australia Pty Ltd)	Industry, Australia	<ul style="list-style-type: none"> • The AFGC recommends that FSANZ remove the requirement for %DI energy per serve as it is an additional regulatory burden that fails to address the purported risk. • FSANZ provides no evidence that health claims on foods in other countries have produced over consumption or aroused unwarranted expectations of the benefit to the individual, while ignoring the evidence from the Heart Foundation ‘Tick’ program which indicated consumers understand that the “Heart Healthy” logo indicates a ‘healthier choice’ in the category and that it does not encourage over-consumption. AFGC considers that health claims on foods would be expected to deliver a similar outcome and would not encourage over consumption. • If %DI information does not improve overall decision making, then it cannot address the risk FSANZ intends it to manage, that of purported over consumption for which FSANZ offers no evidence. From this, the AFGC concludes that the provision of additional information such as %DI energy within the nutrition information panel would not address the issue of over consumption, even though there is no evidence that health claims encourage such over consumption. • The AFGC has demonstrated through sound science that: <ul style="list-style-type: none"> – requiring %DI energy is an inappropriate measures to manage the imagined risks to public health of foods carrying substantiated health claims; and

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<p>Australian Food and Grocery Council (AFGC)</p> <p>(Supported by Nestle Australia Ltd and Nestle NZ Ltd, Unilever Australasia, George Western Foods Limited/AB Food and Beverages, Simplot Australia Pty Ltd)</p>	<p>Industry, Australia</p>	<ul style="list-style-type: none"> - there is no evidence of market failure that would require such a measure. • None the less, in reviewing the proposed ‘one size fits all’ generic energy value of 8700kJ, the AFGC notes that its use may be misleading for certain target markets, for example children under 7 years where it represents an overestimate of needs and adolescents 12 – 18 years where it represents an underestimate of needs. • The proposed risk management measure of including the statement ‘based on an average adult diet of 8700kJ’ may not address the issue of misleading information. • FSANZ has failed to address its policy objectives, failed to provide evidence that justifies a labelling requirement, and selected a risk management tool that fails to address the purported risk. • The additional labelling requirement will affect many products that currently carry claims and that have been safely in the market place for many years. The requirement to alter labels will divert the industry from innovation to re-labelling of between 40 and 60% of current Stock Keeping Units (SKU) in the market place. • The AFGC has in previous submissions indicated that a label change costs approximately \$2000 per SKU, a number confirmed in the recent FSANZ commissioned report on the Feasibility of extending Country of Origin Labelling - A benefit cost analysis. This does not include the opportunity costs of the time spent preparing and checking new labelling. While a proportion of this cost can be seen in the context of routine label changes, there remains a considerable cost that has to be absorbed or passed on to consumers, reducing competitiveness. • When this proposed change is not based on sound science and does not address a market failure, FSANZ is failing in its responsibility.
<p>Australian Fruit Juice Association (AFJA)</p>	<p>Industry - Australia</p>	<ul style="list-style-type: none"> • Do not understand the logic behind the introduction of %DI in the nutrition information panel for energy and claimed nutrient. • The standard %DI for energy of 8,700 kJ is too high for women and children and too low for men and pregnant woman. • FSANZs’ claim it will assist consumers compare similar products is superfluous as comparison can be made through the 100 ml column. • It will be extremely confusing to the consumer to have some nutrients in %DI and some in %RDI. • Consumers would also wonder why some energy figures per serve have %DI and others have nothing next to them.
<p>Australian Nut Industry Council</p>	<p>Industry - Australia</p>	<ul style="list-style-type: none"> • Does not support the percentage daily intake of energy conditions. • It is inappropriate to base the percentage intake calculation on a single value of 8,700 kilojoules for an adult. This value is not suitable for children. Will result in some healthy, energy dense foods such as nuts, being represented as providing a greater amount of energy to the diet than other less healthy but energy poor foods. Shifts focus of population health messages to lower kilo joule choices rather than highlighting the nutrient density of nutritious foods such as nuts. Provided an example of mixed nuts and rice crackers. • Recommends the requirement to list percentage daily intake of energy in the nutrition information panel when making a nutrition content claim be deleted or be optional.

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Campbell Arnott's Asia Pacific	Industry-Australia	<ul style="list-style-type: none"> • Recommends that existing requirements to report energy per serve and per 100g be retained, and the requirement for reporting of percentage daily energy intake be removed. • The generic energy value of 8700 kJ is misleading and does not consider the differing needs based on individual, life stage, physical activity and circumstance, especially for young children. • This is misleading to the consumer in making an informed choice. • Would incur a cost to industry and ultimately consumers.
Coles Myer Ltd	Industry, Australia	<ul style="list-style-type: none"> • Does not support the requirement for provision of percentage daily intake of energy in addition to the claimed nutrition property. Unnecessarily complicated. • Disputes that this is less onerous than the current provisions for %RDI requirements as per the Draft Assessment Report for Proposal P293 – Nutrition, Health and Related Claims. On some food labels, two additional lines in the nutrition information panel would be required – one for the %DI in the values column under energy plus a reference statement under the nutrition information panel. Not practical on small sized labels and incurs additional production and printing costs. • Average consumer will not be able to accurately interpret %DI information on the basis of their individual energy requirements which requires an estimate of both individual energy intake and expenditure. Average energy intake of 8,700 kJ is not meaningful information and in fact could be misleading. • The values for average intake of 8700 kJ were not intended for use of foods that may be targeted at children and adolescents. • Average consumer would not be able to differentiate between %RDI and %DI. • %RDI is a positive target – but those wishing to control or lose weight may be wishing to reduce the %DI for energy. This targets energy without accounting for nutrient density – may be misleading. • Australia-wide education campaign for consumers would be required to prevent consumers trying to reach a 100% energy target.

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Confectionery Manufacturers of Australasia Supported by CMA NSW Branch CMA Queensland Branch CMA SA Branch CMA Victoria Branch Langdon Ingredients CMA NZ Branch and International Confectionery Association	Industry – - Australia Industry – New Zealand and Industry - international	<ul style="list-style-type: none"> • Recommends that FSANZ remove the requirement for %DI on food products that carry claims. The Draft Assessment Report uses the justification that the inclusion of %DI on the food label will discourage over-consumption of a food that is carrying a claim. Many foods currently carry nutrient content and nutrient function claims and there is no evidence provided to support the rationale that without the proposed %DI, over-consumption will arise. • The reference energy content is 8700 kJ for an adult. This is not reflective of the needs of children and may serve to promote inappropriate intakes of food, either over-consumption (in the case for children under 7) and under consumption (for adolescents aged 12-18 years). • The proposal that %DI be included on the nutritional information panel for any claimed nutrient and the energy of the food, is a far reaching burden for the food industry as it will trigger the requirement to change every label carrying a nutrient content claim and it cannot be demonstrated to address the purported risk. • It is often thought that changes to labels occur frequently. This is the case for some fast moving consumer goods. However, there are some labels that might only change every five years (if that), particularly for small to medium sized enterprises. Some food labels carry a large inventory and changes that need to occur within a certain timeframe will mean a significant write-off of labels. It is preferred that changes to labels occur through market driven changes rather than through changes brought about by regulation with timeframes imposed.
Dairy Australia Fonterra Co-Operative Group Limited	Industry-Australia Industry – New Zealand	<ul style="list-style-type: none"> • This is not representative of an appropriate energy intake for most men, women or children. • Will only cause confusion and over-consumption amongst consumers. • Recommends removing the requirement for %DI on the label, from the proposed Standard.
Dairy Farmers Group	Industry - Australia	<ul style="list-style-type: none"> • Some products are manufactured specifically for children, especially children’s yoghurt and dessert snacks. Parents want these to be ‘healthy and nutritious’ and appropriate for their children so it is common to include nutrition content claims and general claims on the label. • Consider it inappropriate on these products to include a statement based on an average adult diet of 8700kJ. It would be more appropriate to provide information based on an average diet for the target market – children. • Are concerned that the emphasis on energy might skew consumption patterns away from consumers focusing on the ‘total picture’ to achieve a balanced dietary intake. • Whilst consumers need to be aware of the kilo joule contribution of foods, an emphasis on counting kilojoules puts at risk the consideration of nutrient intake, e.g. an orange juice with added calcium will have a lower kilo joule level and hence may appear to offer a better choice than milk, despite the fact that milk provides other essential nutrients.
Department of Human Services Victoria	Government – Australia	<ul style="list-style-type: none"> • Serve sizes are more practical and consumer friendly than per 100g for providing dietary intake information and should be standardised. • The %DI is based on an average of daily male and female energy intake. It is not supported as it is an overestimate for women and children, and as such, is contrary to national dietary guidelines. It is also confusing and misleading.

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Department of Human Services Victoria	Government – Australia	<ul style="list-style-type: none"> • The proposed approach does not put foods in a whole of diet context as it does not give consumers a realistic idea of how much of a certain food type should be consumed as part of a healthy diet. • %DI will only be required on foods with health or nutrient content claims, therefore consumers will not be able to account for all foods consumed or compare with foods that make no claims. • Unless %DI is mandatory for all foods, consumers cannot access adequate information to make an informed choice. • Suggests that reference to %DI be deleted from the Standard and be replaced with the recommended number of daily serves for the specific food group and must be supported by standardised serve sizes. The Australian Guide to Healthy Eating provides guidelines for serving sizes for various food groups and could be used as a model.
Fonterra Co-Operative Group Limited supported by (P&B) Fonterra Brands Australia	Industry – New Zealand Industry - Australia	<ul style="list-style-type: none"> • Concern that the percentage daily intake levels are difficult to understand and may not be meaningful to consumers. They may also encourage over consumption of a nutrient.
Food and Beverage Importers' Association	Industry - Australia	<ul style="list-style-type: none"> • Does not support the proposed requirement that when a nutrition content claim is made there will be requirement for the provision of percentage daily intake of energy and the claimed property. Many foods currently make nutrition claims and there is no evidence that consumers want more information. There is also no evidence of over-consumption of foods that carry such claims. • This proposed requirement will result in significant changes to labels and be difficult to be made in the case of imported food. Some labels might only change every five years. In addition, some food labels carry a large inventory and premature changes would result in a significant write-off of labels.
George Western Foods Limited and AB Food and Beverages	Industry - Australia	<ul style="list-style-type: none"> • In relation to energy this will be misleading in relation to foods aimed at infants and children, such as Ovaltine drink base, because the 8700 kJ is based on an average adult diet of 8700 kJ. • Marketers could not then seek to explain that the energy value is inappropriate for children because of the prohibition in Standard 1.1.1 against any labelling that contradicts mandatory information. • Until the inconsistency is resolved with the lack of clear RDIs for the three demographic groups viz, infants, children and adults, this proposal forces manufactures to prescribe incorrect misleading information on the label. • The idea of mandating percentage daily intake declarations is fundamentally flawed and should be rejected. • It would encourage overeating by children when the public health concern, if anything, points the other way.
Go Grains Health and Nutrition Limited supported by George Western Foods Limited/AB Food and Beverages	Industry – Australia	<ul style="list-style-type: none"> • Do not support the proposed requirement for %DI declaration. • Believe it is inappropriate to base the percentage intake calculation on a single value of 8700kJ. This value is relevant to some adults but not to children or infants and would be misleading for them as it would misrepresent the amount of energy contributed by the food and could lead to overeating. • There are already too many numbers in the nutrition information panel for people to interpret. • Information already exists on pack to allow people to make comparisons between foods.

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Go Grains Health and Nutrition Limited supported by George Western Foods Limited/AB Food and Beverages	Industry - Australia	<ul style="list-style-type: none"> Health claims and related information on pack are not there to manage the obesity problem, but rather to assist people to choose a healthy diet.
Goodman Fielder NZ Ltd	Industry – New Zealand	<ul style="list-style-type: none"> Supportive of the proposed new requirement for %DI information on all products carrying health and content claims – this information will be useful to consumers. Supportive of proposed reduction of the %DI requirements to include only claimed nutrients and energy and also the reduction of the mandatory statement on pg 48 section 5.3.3.2. Agrees with suggestion on p49 section 5.3.3 that the term ‘total diet’ is not well understood by consumers and that the term ‘varied and healthy diet’ is more appropriate.
Health Outcomes Team Auckland Regional Public Health Service (ARPHS)	Public Health – New Zealand	<ul style="list-style-type: none"> The daily energy requirement of 8700kJ does not allow for age or gender differences and over represents the energy requirements of children and many adults. This situation is likely to remain unchanged when the new energy reference value is substituted. In this ‘obesogenic’ environment, portraying percentage energy requirement per serve is unhelpful
Heinz Australia/Heinz Wattie’s New Zealand	Industry – Trans Tasman	<ul style="list-style-type: none"> Recommends that products specifically marketed to consumers other than the general adult population should be excluded from the %DI requirement. Support the exclusion of foods for infants from the requirements to carry %DI. %DI declaration should not be required where the daily intake information for adults is irrelevant and would be misleading. Appendix C provides examples of labels where energy information related to adults would be confusing. Suggests Standard 1.2.7 could accommodate this by including an exclusion based on ‘any food where the age group is clearly defined on the label and where this age group is not inclusive of the general adult population’. This way a breakfast cereal for all age groups would not be exempt but toddler good where age descriptions on the label are clear, would be exempt.
Horticulture Australia Ltd (supported by Horticulture Australia Council and SPC Ardmona)	Industry – Australia	<ul style="list-style-type: none"> Percentage intake information will be of limited use without education of consumers as it may be too complex and meaningless to food selection. Percentage intake information does not put foods in a whole diet context and as it will only be required on foods with health or nutrient content claims, consumers will be unable to compare foods that do not make claims. Is concerned that food selection will be distorted by preferential consumer reference to %DI energy or fat content per serve, rather than nutritional and health benefits.

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Horticulture Australia Ltd (supported by Horticulture Australia Council and SPC Ardmona)	Industry - Australia	<ul style="list-style-type: none"> • The draft %DI is based on n average male and female daily energy intake and therefore the estimate per serve for women and children would be lower than the actual value, possibly leading to over-consumption. • Notes the difficulty in marketing fresh products in retail outlets where the majority of product is not labelled.
Jenny Robertson Consulting Services (Jenny Robertson and Dan Southee)	Industry - Australia	<ul style="list-style-type: none"> • FSANZ implies that the risk intended to be managed by this “initiative” is that of over-consumption of single foods or ingredients. Therefore implied risk of under-consumption. The Draft Assessment Report does not provide any substantiation for these assumptions. • FSANZ make a number of claims in Attachment 5 about %DI which support the inconsistent approach throughout the Draft Assessment Report to a ‘whole of diet approach to food selection’. The inconsistencies in logic and philosophy and absence of supporting data, which underpin the proposal for %DI are of concern, for example: <ul style="list-style-type: none"> – FSANZ own data indicate that %DI did not improve consumer decision making – Absence of data to support the claim that ‘%DI will provide a tool for consumers to assess the ‘healthiness’ of foods carrying health claims’. – The implication that ‘one size fits all’ – With overweight and obesity as a major national concern to public health, it is surprising that FSANZ has recommended a single dietary intake for energy. The figure selected is too high for many sectors of the community and as such has the potential to promote over consumption of energy intake in those sectors. • Recommends that the requirement for %DI energy per serve be removed from the proposed draft Standard as it does not meet Council of Australian Government, Ministerial Guidelines or FSANZ own section 10 objectives. It provides an added regulatory burden and cost for industry and enforcement agencies and has the potential to confuse consumers. • With overweight and obesity as a major national concern to public health, it is surprising that FSANZ has recommended a single dietary intake for energy. The figure selected is too high for many sectors of the community and as such has the potential to promote over consumption of energy intake in those sectors.
John Birkbeck (Massey University)	Academic – New Zealand	<ul style="list-style-type: none"> • Submits most strongly that %DI concept is not a scientifically tenable approach, strongly objects to the %DI, %RDI or any similar scheme/concept. • The dietary intake usually utilised is that for an adult young and middle-aged male in good health, only quite a small minority of the entire population. • Only about 33% of the NZ population in 2001 was between 15 and 64 years (generous age span), over 50% of these will be female, which brings it to say 16%. A substantial proportion of these are obese, and hence by definition not ‘healthy’. Therefore talking about 8% or less of the population. • Could be very misleading for a toddler, a preschool child or an elderly female. • Why are recommendations based on such a small proportion?

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John Birkbeck (Massey University)	Academic – New Zealand	<ul style="list-style-type: none"> • The %DI concept is inherently flawed and should be abandoned even if the Americans and others use it. We should know better. • Just because it is trendy to do this doesn't mean it is sensible or will assist better dietary choice.
Kellogg (Aust.) Pty Ltd	Industry-Australia	<ul style="list-style-type: none"> • Support the introduction of %DI as this will assist consumers, however it should be applied across all foods so that consumers have complete information
Kraft Foods Ltd	Industry - Australia	<ul style="list-style-type: none"> • %DI in relation to high level claims • Supports the approach to the management of high level claims, however does not understand why %DI energy is a required element in these claims. The %DI energy is based on 8700kJ diet. This is of no value if consumers do not relate to it. • Questions whether this an effective means of addressing a health risk; whether if trying to address the obesity issue, how effective is it for children whose needs are rapidly changing with physiological age; what are the energy bases for the rest of the population – children, teens, male, female, pregnant, elderly; who is going to promulgate this information. • %DI in relation to content claims • Rejects the requirement of adding %DI energy. • Adding %DI will affect a large number of products. Questions the benefit of this. %DI is not helpful without a major education campaign to help the public understand what it means and how it relates to them.
Meat and Livestock Australia	Industry – Australia	<ul style="list-style-type: none"> • Does not support the use of % DI for a number of reasons: • The figure of 8,700kJ is limiting. Recommends that the generic energy value of 8,700k must be addressed as it may be misleading for certain target markets, for example children under 7 years where it represents an overestimate of needs and adolescents 12-18 years where it represents an underestimate of needs. • Does not support the proposed risk management measure of including the statement based on an average adult diet of 8,700kJ' as this may not address the issue of misleading information. • Looks at absolute amounts not absorbable amounts. Recommends bioavailability should be taken into account not just absolute amounts. For example under percentage daily intake some processed cereals especially those that have been fortified may have higher levels of iron or zinc, but these nutrients are better absorbed from animal foods such as red meat. • Iron bioavailability is affected by the amount of haem iron present, the amount of non-haem iron and the presence of dietary factors which enhance or inhibit the absorption of non-haem iron. Haem iron found in red meat is readily absorbed and little affected by dietary factors, with the rate of absorption being approximately 25% (range 15-40%) (Hunt 2003). About half the iron in red meat is haem iron which accounts for its high bioavailability. Haem iron can account for nearly half of the iron absorbed by people consuming moderate to liberal amounts of meat (Hunt JR, 2000) and has been positively associated with serum ferritin in epidemiological studies (Fleming DJ, 1998). • Looks at absolute amounts not absorbable amounts continued.

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Meat and Livestock Australia	Industry - Australia	<ul style="list-style-type: none"> • Bioavailability of zinc. Sandstrom et al (1989) estimated that lacto-vegetarians absorbed about half the zinc absorbed by omnivores. Another study showed that switching from an omnivorous diet to a lacto-vegetarian diet reduced zinc absorption by 35% and lowered plasma zinc levels (Hunt 1998). A fall in hair zinc concentrations, a marker of chronic zinc status, has also been observed following the switch to a lacto-vegetarian diet after 12 months (Srikumar 1992). • Recommendations by the Australian Nutrient Reference Values. The newly drafted Australian Nutrient Reference Values recognise this variation in iron and zinc bioavailability and have recommended higher RDIs for vegetarians compared to diets containing red meat, poultry and fish i.e. the RDI for iron has been increased by 180% (8mg to 14.4mg per day) and by 150% (11.7mg to 17.6mg per day) for zinc. • Recommends FSANZ modify the %DI to account for bioavailability by increasing the reference value for daily intake for non-animal sources of iron and zinc as per nutrient reference values. • The absorption of non-haem iron is highly variable (range 1-15%) and is affected by enhancers, such as ascorbic acid, alcohol and the ‘meat factor’, as well as inhibitors, such as phytates, polyphenols, vegetable protein, calcium and eggs (Hallberg & Hulthen 2000). Phytates, present in legumes, wholegrains and nuts, and polyphenols found in tea, red wine and wholegrain cereal foods, are the strongest inhibitors of the absorption of non-haem iron. Ascorbic acid is the most potent enhancer facilitating the release of iron bound to phytates and polyphenols and the formation a soluble iron-ascorbic acid complex in the stomach. • The interplay of enhancers and inhibitors can have a very significant effect on iron absorption. Recently an algorithm was developed and validated for estimating iron bioavailability based on the nutrients and food components known to improve or inhibit iron bioavailability (Hallberg and Hulthen, 2000). Using this algorithm and other data, it is estimated that approximately 18% of iron is available from a mixed western diet (Institute of Medicine, 2001). In largely vegetarian diets with only small quantities of meat and fish, iron availability is estimated to be less, approximately 10% and in very constrained vegetarian diets, iron availability is estimated to be just 5%. <p>References:</p> <ol style="list-style-type: none"> 1. Hallberg L, Hulthen L. Prediction of dietary iron absorption: an algorithm for calculating absorption and bioavailability of dietary iron (2000) <i>Am J Clin Nutr</i> May;71:1147-60. 2. Fleming DJ, Jacques PF, Dallal GE, Tucker KL, Wilson PW, Wood RJ. Dietary determinants of iron stores in a free-living elderly population: The Framingham Heart Study. (1998) <i>Am J Clin Nutr</i>;67:722-33. 3. Hunt JR. Bioavailability of iron, zinc, and other trace minerals from vegetarian diets. (2003) <i>Am J Clin Nutr</i>;78(3 Suppl):633S-639S. 4. Hunt JR. High-, but not low-bioavailability diets enable substantial control of women's iron absorption in relation to body iron stores, with minimal adaptation within several weeks. <i>Am J Clin Nutr</i> 2003b;78:1168-77. 5. Sandstrom B et al 1989 In: Mills CF, ed. <i>Zinc and human biology</i>. London: Springer-Verlag: 57-78 6. Srikumar TS et al (1992). Trace element status in healthy subjects switching from a mixed to a lactovegetarian diet for 12 months. <i>Am J Clin Nutr</i>; 55:885-90

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Murray Goulburn Co-operative Co Ltd	Industry - Australia	<ul style="list-style-type: none"> • Does not support the recommendation for mandatory labelling with %DI of energy per serve where a nutrition content claim or health claim is made. The following reasons were provided: <ul style="list-style-type: none"> – There is no evidence to support the beneficial outcome of such a requirement. – There would be a huge cost to industry to change a large proportion of labels. – %DI of energy per serve does not reflect the ‘healthiness’ of a food. – A single daily energy intake amount is not representative of the wide variation in desirable energy intakes across the population. – It is not feasible to continue to require increasing amounts of nutrition information on food packaging. Other means for helping consumers make healthy diet choices should be considered by the Commonwealth Department of Health and Ageing.
National Foods Ltd	Industry, Australia	<ul style="list-style-type: none"> • FSANZ implies in its supporting documentation that the risk intended to be managed by the ‘initiative’ of introducing %DI to the nutrition information panel is that of over-consumption of single foods or ingredients. Equally, it could be assumed that application of ‘one size fits all’ criteria could result in ‘under-consumption’ of some foods or ingredients, putting consumers at risk of nutritional deficiencies. • The Draft Assessment Report does not address data from National Heart Foundation (2001) which clearly indicates that consumers understand the tick logo. Unlikely that over-consumption of single foods or nutrients occurs as a result of health claims. It is more likely to occur due to misinformation from nutrition education providers. • For a health claim, how does reference to the %DI for energy assist consumers’ understanding of the nutrient being claims (with the exception of a weight management health claim?) • Suggested figure of 8700kJ is irrelevant. It was taken from the 1995/1996 National Nutrition Survey – data now a decade old. If we are in such an ‘obesogenic environment’ what analysis has FSANZ done to ensure this is the most accurate and appropriate figure, without negative implications if applied to whole population (i.e. ‘one size fits all’ strategy)? • The %DI for energy is required only on products making a nutrient content or health claim – what prevents a manufacturer from declaring this voluntarily? How will a consumer interpret why %DI for energy appears on some food products and not others? • Consumer research shows that ‘disclaimers’ are not used – either they are missed or consumers are uncertain of the meaning and/or relevancy of them to the food product (ANZFA, 2001). National Foods submits that disclaimers drawing attention to the nutrition information panel are redundant, as mandatory nutrition labelling makes nutrition information available to consumers who wish to verify label claims (i.e. per serve to per 100g, in the nutrition information panel). • Supports the principle behind including the %DI (and %RDI) for the claimed nutrient, in the nutrition information panel. The concern is consumers understanding, and whether including %DI and % recommended dietary intake (RDI) on the one nutrition information panel will create confusion or enhance comprehension.

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National Foods Ltd	Industry, Australia	<ul style="list-style-type: none"> • Recommends that the requirement for %DI energy per serve be removed from the proposed Draft Standard as it does not meet Council of Australian Government, Ministerial Guidelines or FSANZ Act Section 10 objectives. It provides an additional regulatory burden and cost for industry and enforcement agencies. Has potential to mislead and confuse the consumer and may lead to inappropriate food consumption based on energy without considering the food's nutrient content.
Nestle Australia Limited and Nestle New Zealand Limited	Industry – Trans Tasman	<ul style="list-style-type: none"> • Recommends that the requirement for %DI on food products that carry claims is removed. • The justification for inclusion of %DI is that it will discourage over-consumption of a food that is carrying a claim, however many foods currently carry nutrient content and nutrient function claims and there is no evidence provided that here is over-consumption of these foods. • The adult reference energy content of 8700kJ is not reflective of the needs of children and may serve to promote inappropriate intakes of food – either over-consumption (under 7 years) or over consumption (12 – 18 years). • Changes to labels will be quite significant and it is preferred that these occur through market driven changes rather than through changes brought about by regulation changes that are then driven by timeframes imposed by government. • Although some changes to labels do occur frequently, e.g. yoghurt and ice cream, there are some labels that might only change every five years. Some labels carry a large inventory and changes that must occur within a certain timeframe will mean significant write-off of labels. • Agree with exemption for foods for infants and formulated supplementary foods for young children from requiring the %DI values; %DI will not be appropriate for these foods.
New Zealand Beef and Lamb Marketing Bureau	Industry - New Zealand	<ul style="list-style-type: none"> • The proposed requirement to include %DI intakes on all products carrying health and content claims has the potential to mislead consumers, contrary to the FSANZ objectives. • The %DI for an 'average adult diet' will be meaningless to a large proportion of consumers. Most RDIs are set separately for men and women as their needs differ, and for some nutrients e.g. iron, the difference is significant. • In addition, removing the requirement for %DI on foods 'marketed specifically for children' is contrary to the promotion of healthy, family foods and inclusive eating patterns. • The approach also fails to recognise the bioavailability of nutrients, which makes a large difference on terms of contribution to overall nutrient intake within the total diet.
New Zealand Dietetics Association (NZDA)	Public Health – New Zealand	<ul style="list-style-type: none"> • Inclusion of percentage intake information is misleading and unnecessary. • Generic daily energy of 8700kJ does not allow for varying population subgroups. • could be excluded altogether if adopted the recommendations to include disqualifying criteria for content claims
New Zealand Food and Grocery Council (NZFGC)	Industry – New Zealand	<ul style="list-style-type: none"> • Do not support the requirement for %DI on content claims because: <ul style="list-style-type: none"> – the intent of the provision is to prevent over consumption of single foods and ingredients and not arouse unrealistic expectations of the benefit to the consumer. There is no indication that this would be the case; – although no analytical work will be required, labelling changes do involve substantial costs. While some labelling

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New Zealand Food and Grocery Council (NZFGC)	Industry – New Zealand	<p>changes occur at fairly regular intervals and will fall within the permitted lead in time provided in the Standard, this is not the case for the timing of other label changes (5 – 6 year intervals is not uncommon). Stocks of some products remain in the supply chain for long periods. It would be unreasonable to expect manufacturers to write off large supplies of stocks due to a labelling change, the usefulness of which is highly questionable.</p> <ul style="list-style-type: none"> – There is no evidence that the fact the product does not contain a %DI label now has caused any problems. – Basing the %DI on an average adult diet of 8700kJ is questionable, inappropriate and unhelpful for young children, active teenage boys, women of small stature or older people etc.
New Zealand Food Safety Authority (NZFSA)	Government – New Zealand	<ul style="list-style-type: none"> • Proposed Standard mandates an extra level of complexity in the nutrition information panel. • Research shows consumers are not able to fully interpret the information currently presented in this panel. • Questions whether adding this extra requirement on %DI will add to the consumer’s understanding of the products’ place in the diet. • Questions whether there has been any consumer research carried out in interpretation of nutrition information panels to show that this is the best approach to be adopted. • Believe consumer education would be required in this area for the intended benefit of this additional information to be realised. • Recommend that FSANZ monitor the value of mandating the %DI in the nutrition information panel, particularly the %DI for energy.
New Zealand Nutrition Foundation	Public Health – New Zealand	<ul style="list-style-type: none"> • The practicality, value and calculation of %DI information are dependent on the nutrient density and serving size. • Reference daily intakes vary for gender, age, physical activity etc. How valuable is this? • Other foods in the daily eating pattern will not have the same information unless also making a claim relevant to that nutrient. • With differing serve sizes used by manufacturers, governments and other groups, making it mandatory to relate this to serve sizes means these need to be compatible with actual daily food intakes. • This regulation needs explanation, the purpose clearly stated and a rational justification. • How are the food industry and the consumer expected to use this information?
NSW Food Authority	Government – Australia	<ul style="list-style-type: none"> • Suggests further consideration of the nutrients which are required to declare the percentage daily intake in the nutrition information panel. There is a good case for requiring a percentage daily intake of those nutrients which form the ‘disqualifying criteria’ in subclause 5(2) of the proposed standard when a claim has been made with respect to that food. This would assist consumers to make an informed choice e.g. the merits of a breakfast cereal high in fibre may be outweighed by the high levels of sodium present.

Submitter	Group	Comments
Parmalat Australia Ltd	Industry – Australia	<ul style="list-style-type: none"> • Believes the requirement to have a %DI energy value in a nutrition information panel on only these products that make claims, will not benefit consumers when there are similar products not making claims and are not incorporating %DI energy values. • The value of %DI energy is of only some benefit if contained on all labels and consumer are able to monitor energy intake in the context of their total diet, not just on the basis of information on a limited number of products consumed. • The “one size fits all approach” in applying a generic value of 8700kJ is misleading for certain target markets that spread across age and gender. • Provides a table showing degrees of variation between very low and very high calorie dairy products. Data provided suggests %DI Energy in improving the decision process in making healthier food choices within the dairy category is questionable. • Recommends that FSANZ removes the requirement for %DI energy per serve as it is an additional regulatory burden that serves little benefit in reducing the risk associated with over consumption high energy (unhealthy) foods. • Recommends the requirement for %DI energy in nutrition information panels be removed when a high level claim is made. There is no basis for incorporating %DI energy where the claim being made bears no relation to energy content of the food.
Queensland Health	Government – Australia	<ul style="list-style-type: none"> • % RDI information in nutrition information panels is of little use to consumers unless the relevant population sub-group for the RDI used is specified. • Questions what the reference values in the table to subclause 7(4) are based on.
Rae Frampton	Consumer – New Zealand	<ul style="list-style-type: none"> • Supports the additional information on content and health claims, for example, the percentage of daily nutritional needs.
Rosemary Stanton	Public Health - Australia	<ul style="list-style-type: none"> • Percentage daily intake statement is inadequate to inform consumers that the presence of added vitamins and minerals does not make a product healthy. • Giving %RDI or %DI could encourage consumers to over-consume, e.g. if one serve provides 25% of the RDI, to consume two serves to received 50% of the RDI. • Dietary intake creates problems as it varies between age groups. This is particularly important for energy. Differences are less important for vitamins and minerals. • An energy intake of 8700kJ would overestimate the requirements of many Australian women. The National Nutrition Survey recorded a mean of 7480kJ in women aged 19 and over, although almost half are overweight or obese. There are two possibilities to connect the claimed energy intake and high overweight – under-reporting of food intake (Rutishauser I. Getting it Right How to use the data from the 1995 National Nutrition Survey. Commonwealth of Australia, 2000); or that actual energy requirements are lower than expected. • At 8700kJ at least half the population would be expected to gain weight.

Submitter	Group	Comments
Rosemary Stanton	Public Health - Australia	<ul style="list-style-type: none"> • Suggest that extra words be added to put the energy recommendations into context. e.g. %DI is based on an average normal weight adult's requirements. Those who are overweight need fewer kilojoules than average. • Rationale for this is that energy intake is probably the most crucial aspect of the Australian diet that requires change.
Sanitarium Health Food Company	Industry – Trans-Tasman	<ul style="list-style-type: none"> • Does not support the inclusion of %DI for energy and relevant nutrients in the nutrition information panel, as proposed in the draft Standard. It is understood that this information is to be included to assist consumers compare the 'healthiness' of foods and also to discourage over consumption of any one food. • Does not see a benefit for including %DI in nutrition panels with the current requirement for labels to include nutrition information on a per serve and per 100g /mL basis for ease of product comparison, and with lack of evidence to show that health claims encourage over consumption. • Applying one set of %DI's to all products, as required in the draft Standard, is not appropriate for different target markets, such as children and older adults who have lower energy requirements than the average adult. Removing the requirement for including %DI on all nutrition panels would reduce the complexity of both the proposed Standard and product labels. • Recommends that %DI on nutrition panels should remain voluntary.
Simplot Australia Pty. Ltd.	Industry - Australia	<ul style="list-style-type: none"> • The proposed requirement to declare percentage intake information will be difficult to include on relatively small packages. • The surface area of relatively small packages such as 100g seafood cans for product information is limited (but greater than 100cm²) (examples of foods affected provided at Appendix 4). For example, Light Tuna in Springwater labels contain '98% fat free' and 'good source of omega- 3' claims and therefore require an expanded nutrition information panel. There is insufficient space to include %DI for energy and fat as well as the additional statement. • Addition of neck ties or fold out labels is possible, but production costs for additional materials and labour that may be required, as well as possible reduction in production efficiency will add to costs.
Tomox Pty Limited	Public Health	<ul style="list-style-type: none"> • Does not take into account the nutrient density of a food and may make less nutritious foods look more attractive to those counting kilojoules. • Energy value is inappropriate for those who are very inactive, of small stature or for products aimed at young children.
The Wrigley Company Pty Ltd	Industry – International	<ul style="list-style-type: none"> • In the case of products making a sugar free claim the percent daily intake requirement is onerous, forcing repetition of the zero value of the nutrient claim several times on the packaging: <ol style="list-style-type: none"> 1. As a sugar free claim 2. Within the NIP with the (i) average quantity per serving and (ii) average quantity per 100g as a 0g value 3. Repeated within the nutrition information panel as 0% of the average daily intake 4. Repeated within the mandatory explanatory statement that the product contains 0% of the daily intake of sugar. • Particularly in relation to small packages, these requirements are excessively onerous • %DI should not be required for all food ingredients.

Submitter	Group	Comments
Unilever Australasia	Industry – Trans Tasman	<ul style="list-style-type: none"> • The requirement for %DI of energy per serve and the statement ‘based on an adult average diet of 8700kJ’ or ‘Percentage daily intakes are based on an average adult diet of 8700kJ’. Refutes the argument FSANZ has used to justify the requirement for this additional labelling element to be present on all products that support Nutrition and Health claims. • FSANZ have provided no evidence as to why making a truthful statement about the content of a food will cause over-consumption or unmet expectations on specific products. This requirement is onerous and cost-prohibitive to manufacturers who will be required to change the label for every product that currently has a nutrition or health claim (according to the new Standard) in our case approximately 50% of our entire product range, where there has been no demonstrated market failure. If anything, this could provide a disincentive to manufacturers to provide further information on their products, particularly as there are a growing number of wordy labelling elements being mandated and where pack size and space on packs is restricted by other legislation – Trade Measurement.
Kraft Foods Ltd	Industry - Australia	<ul style="list-style-type: none"> • Consider FSANZ has inserted provisions which are not in the Policy Principles and therefore do not belong in the regulations. These provisions pertain to public dietary policy. Requirements, such as %DI only make the regulations more cumbersome, wastes time and energy of those having to comply and enforce, and requires FSANZ to spend a lot of time, effort and money explaining to consumers what they mean.

**Proposal P293 Nutrition, Health and Related Claims
Summary of submissions to the Draft Assessment Report**

4. CONDITIONS FOR FOOD AS PREPARED OR AS SOLD (BASIS OF CLAIMS – COMPOSITION OF FOODS)

Submitter	Group	Comments
Nestle Australia Limited and Nestle New Zealand Limited	Industry – Trans Tasman	<ul style="list-style-type: none"> • Basis for claims – composition • Foods that are regulated in Standard 2.9.3 (formulated supplementary foods) are compositionally based on the made up product for protein, energy and vitamins and minerals. Products within this group, such as MILO and Malted Milk, that are made up with milk will not meet the disqualifying criteria for sugars due to lactose from the milk. Recommend that while these claims about the product would be based on the standard requirements, the disqualifying criteria could be based on the food as sold. • Do not agree that claims based upon the method of consumption cannot be defined in the Code. • The assertion that to do so would be inconsistent with the intent of the Code is incorrect as there are areas of the Code that already regulate the food ‘as consumed according to the directions for use’, such as reference quantity in Standard 1.3.2, Standard 2.9.3 and Standard 1.2.8 which requires foods that are made up with water to be declared on the made up portion. • Agree in some cases claims that relate to the way the food is made could be considered misleading but here are numerous situations where this is not the case and a nutrient content claim about a food as made up is entirely relevant to the intended consumer. • The requirement to specify the raw ingredients (draft assessment report, attachment 5, 2.10) within the claim is excessive. Clear directions for use are provided on the food labels and it should be sufficient that the claim is related to the food prepared according to the directions. • If this is not included in the standard, the user guide should state that the claim could be related to the product as prepared according to the directions on the label. This will allow a clear direction for enforcement and manufacturers.
New Zealand Food Safety Authority (NZFSA)	Government – New Zealand	<ul style="list-style-type: none"> • Believe that claim descriptors, e.g. low etc, should apply to the food as it is consumed, not just as it is purchased. • If a food is required to be stored or prepared in a certain way in order to ensure the claim is still true at the point of consumption, the instructions for that storage/preparation should be explicit on the label. • The wording of the proposed standard does not make this clear. • Quotes where this is currently covered in CoPoNC section 8, and suggests this is an area that could be further explained in the user guides.

Submitter	Group	Comments
<p data-bbox="174 277 495 331">Australian Food and Grocery Council</p> <p data-bbox="174 368 539 549">(Supported by Nestle Australia Ltd and Nestle NZ Ltd, Unilever Australasia, George Western Foods Limited/AB Food and Beverages, Simplot Australia Pty Ltd)</p>	<p data-bbox="568 277 680 331">Industry, Australia</p>	<ul data-bbox="792 277 2040 868" style="list-style-type: none"> • The AFGC rejects FSANZ proposal that claims that are based upon the method of consumption (as defined under CoPoNC) cannot be defined within the Food Standards Code. • FSANZ state (Attachment 5 pg 29) that “to do so would be inconsistent with the requirements in the Code, which apply to food ‘as sold’ rather than food ‘as consumed’” however FSANZ fails to understand its own Code. • Standard 1.3.2 refers to a reference quantity for claims about vitamins and minerals where the food is prepared according to directions and produces a normal serving. Standard 2.9.3 refers to the compositional aspects of formulated supplementary foods that are dependent on the way the product is prepared for consumption. Standard 1.2.8 also requires foods that are made up with water to be declared on the made up portion. • FSANZ states, but offers no evidence that claims that relate to the way the food is made could be considered misleading. In many instances a nutrient content claim about a food as made up is entirely relevant to the intended consumer. • In the absence of evidence, an additional, excessive labelling requirement, (at a minimum, the claim refers to the raw ingredients.) is required, should manufacturers optionally provide an additional column in the nutrition information panel where a food is made up with other ingredients. • Clear directions for use are provided on the food labels and it should be sufficient that the claim is related to the food prepared according to the directions. • Recommends that FSANZ adopt the CoPoNC criteria for conditions regarding food consumption without change as no evidence of market failure has demonstrated a need for change.