Qualifying criteria for nutrition content claims about dietary fibre in Standard 1.2.7 – Nutrition, Health and Related Claims

Executive summary

Standard 1.2.7 – Nutrition, Health and Related Claims was gazetted in January 2013. In the Standard, the qualifying criteria for nutrition content claims about dietary fibre are 2 g, 4 g and 7 g dietary fibre per serving for source, good source and excellent source claims respectively.

In mid-2012, several breakfast cereal and bread manufacturers expressed concern that the qualifying criteria recommended for inclusion in Standard 1.2.7 were set above the criteria in the then voluntary 1995 Code of Practice on Nutrient Claims in Food Labels and in Advertisements (CoPoNC) and that this would affect their ability to make nutrition content claims about dietary fibre. In response to this concern, FSANZ committed to consider this issue further during the three-year transition period for Standard 1.2.7.

In July 2013, FSANZ released a public consultation paper seeking stakeholder views and available evidence relating to the qualifying criteria for nutrition content claims about dietary fibre. In particular, FSANZ sought information on:

- how many foods carrying nutrition content claims about dietary fibre would no longer be able to continue carrying the same claims after the end of the transition period for Standard 1.2.7 in January 2016
- the cost of label changes and/or product reformulations
- any technical issues associated with increasing the amount of dietary fibre in foods and details of any changes that had already been made to labels or product formulations.

Of the 28 submissions received in response to the consultation paper, 17 were from industry stakeholders. Information provided by submitters did not clearly demonstrate that a consistent problem exists across the food industry. While some industry submitters provided data on the cost of labelling changes and product reformulation, it is difficult to assess the significance of this cost based on information provided as this depends on a number of factors including the size of the business, the value of individual products, how many choose to reformulate and how many choose to change their label. In addition, some companies have already made label or formulation changes. Although views were provided about the effect of the qualifying criteria in Standard 1.2.7 on the amount and type of dietary fibre in the food supply and on consumer behaviour, including whether consumers may be confused by a change to claims resulting from a change in the criteria, little relevant evidence was provided to support the views.

Of the six jurisdictions that made a submission, five were in favour of the qualifying criteria in Standard 1.2.7 for various reasons, including that they are more closely aligned with the approach for criteria for vitamin and mineral claims. One jurisdiction suggested that more information was needed in order to form a view.
There was a mixed response from the five public health and consumer submitters, with two supporting the criteria in Standard 1.2.7, one supporting the criteria in CoPoNC, one suggesting more information is required and the other not expressing a clear view.

In summary, FSANZ has decided to maintain the qualifying criteria for nutrition content claims about dietary fibre in Standard 1.2.7. FSANZ considers there is no clear evidence of there being a consistent problem with the qualifying criteria across the food industry. Given the current evidence base, attempting to seek further information on which to base a decision to change the criteria in Standard 1.2.7 is not considered warranted.
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1 Introduction

In mid-2012, during the latter stage of the review of Standard 1.2.7, several breakfast cereal and bread manufacturers expressed concern that the qualifying criteria for dietary fibre nutrition content claims as recommended at Final Assessment (in 2008) were set above the criteria in the voluntary Code of Practice on Nutrient Claims in Food Labels and in Advertisements (CoPoNC) (National Food Authority, 1995) and that this would affect their ability to make the dietary fibre claims (refer to Table 1 for the criteria).

The key concern identified by the four manufacturers was that they would have to downgrade claims from good source to source claims under the criteria in Standard 1.2.7. In particular, they noted that claims for iconic foods such as wheat biscuits would have to be downgraded. The manufacturers commented that there had been no change in the nutrient reference value of 30 g dietary fibre per day since the criteria in CoPoNC were developed, the then proposed Dietary Guidelines for Australians promoted the consumption of dietary fibre, the criteria in Standard 1.2.7 were not aligned to Codex or the EU, and that at Draft Assessment, the majority of submitters supported the criteria in CoPoNC.

Table 1: Qualifying criteria for nutrition content claims about dietary fibre in CoPoNC and Standard 1.2.7

<table>
<thead>
<tr>
<th>Descriptors for the dietary fibre nutrition content claim</th>
<th>CoPoNC qualifying criteria</th>
<th>Standard 1.2.7 qualifying criteria</th>
</tr>
</thead>
<tbody>
<tr>
<td>g dietary fibre per serving</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Source</td>
<td>1.5</td>
<td>2</td>
</tr>
<tr>
<td>Good source</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>Very high or Excellent source</td>
<td>6</td>
<td>7</td>
</tr>
</tbody>
</table>

In response, FSANZ committed to consider this issue further during the three-year transition period for Standard 1.2.7.

In July 2013, FSANZ released a public consultation paper\(^1\) seeking stakeholder views and available evidence on the qualifying criteria for nutrition content claims about dietary fibre. In particular FSANZ sought information from industry on:

- how many foods carrying nutrition content claims about dietary fibre at that time, would no longer be able to continue carrying the same claims at the end of the transition period for Standard 1.2.7
- the cost of changing label information and/or product formulations in order to meet the criteria in Standard 1.2.7
- any technical issues associated with increasing the amount of dietary fibre in foods
- changes that had already been made to labels/product formulations in response to the qualifying criteria for nutrition content claims about dietary fibre in Standard 1.2.7.

Comment was also invited as to whether submitters thought the qualifying criteria should be changed to the levels in CoPoNC and whether consumers could be confused if nutrition content claims about dietary fibre are changed in response to the qualifying criteria in Standard 1.2.7. Submitters were asked to provide documented evidence to support their views.

# 2 Background

## 2.1 Historical consideration of qualifying criteria by the National Food Authority

In the early 1990s, the then National Food Authority began developing qualifying criteria for nutrition content claims about dietary fibre and other food components under Proposal P18 – Nutrient Claims, for possible inclusion in the Australian *Food Standards Code*. At that stage, based on consideration of the dietary fibre content of a wide range of foods, it was proposed that the respective qualifying criteria for *source*, *good source* and *excellent source* nutrition content claims be 1.5 g, 4 g and 10 g dietary fibre per 100 g food, respectively. 

In 1993, it was decided to manage nutrition content claims by way of a voluntary code of practice instead of a food standard. Consequently, P18 was abandoned and CoPoNC\(^3\) (National Food Authority, 1995) was developed. In response to submissions from the Council of Australian Food Technology Associations (CAFTA) and other stakeholders, the National Food Authority changed the basis for dietary fibre claim criteria to per serving as it was recognised that dietary fibre quantities per 100 g would unfairly advantage certain dry foods while disadvantaging fruits and vegetables. The 1.5 g, 4 g, and 10 g dietary fibre per 100 g criteria were converted to 2 g, 4 g, and 6 g dietary fibre per serving as these were considered to most closely reflect the previous per 100 g criteria, taking into account the levels of dietary fibre in a wide range of food and typical serving sizes.

At that time, CAFTA generally supported the criteria of 1.5 g, 3 g and 6 g dietary fibre per serving, for *source*, *good source* and *excellent source* claims, respectively, as they considered that:

- whole wheat grain products should be the benchmark for allowing a *good source* claim
- since white bread was a major source of dietary fibre in the diet, it should be possible to refer to white bread as a *source* of dietary fibre.

Based on the Core Food Groups proposal that was under development at the time, 14 serves from the cereal, fruit and vegetable groups were recommended to achieve approximately 70% of the then nutrient Recommended Dietary Intakes or targets\(^4\). For dietary fibre, an average of 2.1 g dietary fibre per serving would be necessary to achieve a target of 30 g fibre per day, and an average of 1.5 g dietary fibre per serving to achieve 70% of the target. Since it was accepted that some foods within a food group would fall above and below the average, it was considered that an average of 2.1 g dietary fibre per serving would likely be obtained from foods containing dietary fibre in the range of 1.5-3 g dietary fibre per serving. A *good source* of fibre was defined as being within the range of 3-6 g dietary fibre per serving.

Most white breads were able to meet the figure of 1.5 g dietary fibre per serving at that time if the serving size was 2 slices, but not 2 g dietary fibre per serving. The final version of CoPoNC was released in 1995 and included the qualifying criteria of 1.5 g, 3 g and 6 g dietary fibre per serving, for *source*, *good source* and *excellent source* claims, respectively.

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\(^2\) Historical information sourced from documents prepared for the 22\(^{nd}\) meeting of the National Food Authority (1994)

\(^3\) CoPoNC was a voluntary code of practice developed by the National Food Authority (now FSANZ) and managed by the Food Code Management Committee that comprised representatives from industry and the community. A large number of nutrition content claims were self-regulated through the guidance provided in CoPoNC. CoPoNC did not apply in New Zealand.

\(^4\) In 1987, the Australian Department of Health established a nutrition target of increasing dietary fibre intake to 30 g/day by the year 2000.
2.2 Consideration of qualifying criteria by FSANZ (Proposal P293 – Nutrition, Health & Related Claims)

Proposal P293 – Nutrition, Health & Related Claims commenced in 2003. In the Draft Assessment Report (2005)\(^5\), FSANZ proposed that the qualifying criteria for source and good source claims be increased from 1.5 g to 2 g of dietary fibre per serving and from 3 g to 4 g of dietary fibre per serving, respectively. The key reasons for proposing these changes were:

- 1.5 g and 3 g per serving were equivalent to only 5% and 10% of the regulatory reference value for dietary fibre of 30 g\(^6\), respectively. In comparison, for vitamins, minerals, 10% and 25% of the reference value were required to make a source and good source claim, respectively. Similarly for protein, 10% and 20% of the reference value were required to make a source and good source claim, respectively. Therefore, it was considered appropriate to increase the qualifying criteria for dietary fibre
- alignment with Canada’s approach for source and good source claims (see Table 2)
- the 2 g and 4 g per serving would still allow a variety of foods to make claims (noting that some white breads, particularly toast slice, have more than 2 g of dietary fibre per serving).

Qualifying criteria for a very high claim were not proposed in the Draft Assessment Report. One of the reasons for this was concern expressed by submitters with the practice of food companies adding dietary fibre to processed foods.

In the Draft Assessment Report, it was also proposed that voluntary declaration of dietary fibre in the nutrition information panel would be permitted without requiring the food to meet the conditions for a source claim. This meant that the dietary fibre content of foods that did not meet the qualifying criteria for source claims could still be provided in the nutrition information panel thereby providing consumers with information. This provision was included in the consequential amendments to Standard 1.2.8 – Nutrition Information Requirements at the time Standard 1.2.7 was gazetted.

In the Preliminary Final Assessment Report (2007)\(^7\), which was the last opportunity for stakeholders to comment on the qualifying criteria for nutrition content claims about dietary fibre, FSANZ continued to propose that the qualifying criteria be 2 g (6.67% of reference value) and 4 g per serving (13.3% of reference value) and also included 7 g (23.3% of reference value) per serving for an excellent source claim. There was a mixed response from submitters, with some industry and public health stakeholders supporting the proposed approach while others opposed the approach. Key reasons for supporting the approach included the desirability of moving towards a percentage of the reference value consistent with the qualifying criteria for nutrition content claims about vitamins, minerals and protein, and consistency with international regulations. Submitters who opposed the approach cited the following reasons:

- the regulatory reference value of 30 g dietary fibre/day was too high because it aligned with the NHMRC reference value for men aged 19 years and over
- there is no evidence that raising the levels was necessary or would increase dietary fibre intakes
- serving sizes may be manipulated in order to meet the higher criteria

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\(^5\) P293 - Draft Assessment Report - 7 December 2005
\(^6\) The dietary fibre regulatory reference value of 30 g per day is based on a year 2000 nutrition target recommended in *Towards better health for Australians* published by the Commonwealth Department of Health in 1987.
\(^7\) P293 - Preliminary Final Assessment Report
foods such as wheat biscuits would be unable to make good source claims despite being almost 100% wholegrain

the criteria were not aligned to Codex or to the European Union (EU) requirements

consumers may be confused if foods carrying existing claims were reformulated or claims were removed.

In the Final Assessment Report (2008)\textsuperscript{8}, FSANZ maintained the higher levels for the qualifying criteria. This decision was primarily based on the principle of, as far as possible, matching the approach for qualifying criteria for dietary fibre claims with the approach for criteria for claims about vitamins, minerals and protein. Additionally, it was determined that the higher criteria would still allow a variety of foods to make claims. The cost-benefit analysis that was prepared for Proposal P293\textsuperscript{9} took into account labelling and product changes that industry expected it would make in response to the Standard as a whole which included the higher qualifying criteria for dietary fibre. Following consultation with industry, it was estimated that there would be an overall net benefit to the community from the implementation of Standard 1.2.7. As part of FSANZ’s response to the review request, the cost-benefit analysis was updated using 2012 prices. The updated cost-benefit analysis still indicated there would be an overall net benefit from Standard 1.2.7.\textsuperscript{10}

In 2008, when the COAG Legislative Forum on Food Regulation (the Forum) asked FSANZ to review Standard 1.2.7, the issue of qualifying criteria for nutrition content claims about dietary fibre was not included in the review request and therefore was not given further consideration as part of the Review.

Standard 1.2.7, including the qualifying criteria for dietary fibre claims recommended at Final Assessment, was gazetted in January 2013 with a three-year transition period.

2.3 Qualifying criteria for nutrition content claims about dietary fibre used overseas

Table 2 compares the qualifying criteria for nutrition content claims about dietary fibre in Standard 1.2.7 with international regulations and guidance.


Table 2: Qualifying criteria for dietary fibre in Standard 1.2.7, CoPoNC and international regulations and guidance

<table>
<thead>
<tr>
<th>Descriptors for dietary fibre nutrition content claims</th>
<th>Standard 1.2.7 2013</th>
<th>CoPoNC 1995</th>
<th>Canada 2003</th>
<th>EU 2006</th>
<th>Codex 2009¹</th>
<th>USA 2008</th>
</tr>
</thead>
<tbody>
<tr>
<td>Source</td>
<td>2 g per serving (6.7% of reference value (30g))</td>
<td>1.5 g per serving</td>
<td>2 g per reference amount and serving of stated size²</td>
<td>3 g/100g or 1.5 g/100 kcal</td>
<td>3 g/100g or 1.5 g/100 kcal or 10% of dietary reference value per serving²</td>
<td>10-19% of Dietary Reference Value (25g) per prescribed RACC⁴ (for good source, contains or provides claims)</td>
</tr>
<tr>
<td>Good source or high</td>
<td>4 g per serving (13.3% of reference value (30g))</td>
<td>3 g per serving</td>
<td>4 g per reference amount and serving of stated size ('high' is used, 'good' is not permitted)</td>
<td>6 g/100g or 3 g/100 kcal</td>
<td>6 g/100g or 3 g/100 kcal or 20% of dietary reference value per serving³</td>
<td>Not permitted</td>
</tr>
<tr>
<td>Excellent source or very high</td>
<td>7 g per serving (23.3% of reference value (30g))</td>
<td>6 g per serving</td>
<td>6 g per reference amount and serving of stated size ('very high' is used, 'excellent' is not permitted)</td>
<td>Not permitted</td>
<td>Not permitted</td>
<td>20% of Dietary Reference Value (25g) per prescribed RACC⁴ (for high, rich, excellent claims)</td>
</tr>
</tbody>
</table>

¹ Codex Alimentarius: Guidelines for use of nutrition and health claims (CAC/GL-1997). Countries may choose which approach to use.
² For example, the reference amount for bread is 50g and the permitted serving size for bread ranges from 25 to 70g. This means that if the chosen serving size for bread was 40g and it carried a source claim, the bread would need to contain 2g dietary fibre per 40g bread. (reference amounts and serving sizes are at http://www.inspection.gc.ca/english/fssa/label/guide/ch6e.shtml#tab6-3).
³ Serving size and dietary reference values to be determined at national level
⁴ RACC - Reference Amounts Customarily Consumed Per Eating Occasion (reference amounts are at http://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfr/cfrsearch.cfm?frt=101.12). Reference amounts are used to determine whether a food meets the criteria for nutrient content claims. If the serving size declared on the food label differs from the reference amount, and the food meets the criteria for the claim only on the basis of the reference amount, the claim must be followed by a statement that states the basis on which the claim is made.
As indicated in Table 2, the way in which qualifying criteria are expressed differs around the world. Examples are provided in Tables 3 and 4 to facilitate comparison. It is clear that the qualifying criteria in Standard 1.2.7 are similar to those prescribed in Canada and, for foods with a serving size of 67 g or higher, they are also similar to the EU criteria and to the criteria in the Codex Guideline. The approach taken in the USA (same criteria used for good source, contains or provides claims) differs from that taken in other jurisdictions.

Table 3: Comparison of minimum amounts of dietary fibre (g per serving) required for source and good source/high claims for bread*, internationally

<table>
<thead>
<tr>
<th>Descriptors for dietary fibre nutrition content claims</th>
<th>Standard 1.2.7 2013</th>
<th>CoPoNC 1995</th>
<th>Canada 2003</th>
<th>EU 2006</th>
<th>Codex 2009</th>
<th>USA 2008</th>
</tr>
</thead>
<tbody>
<tr>
<td>Source</td>
<td>2 g per serving</td>
<td>1.5 g per serving</td>
<td>2.8 g per serving (reference amount is 50g, permitted serving size 25-70g)</td>
<td>2.1 g per serving</td>
<td>2.1 g per serving or 3 g per serving</td>
<td>2.5 g per 50 g RACC (Dietary Reference Value is 25 g dietary fibre per day)</td>
</tr>
<tr>
<td>Good source or high</td>
<td>4 g per serving</td>
<td>3 g per serving</td>
<td>5.6 g per serving (reference amount is 50g, permitted serving size 25-70g)</td>
<td>4.2 g per serving</td>
<td>4.2 g per serving or 6 g per serving</td>
<td></td>
</tr>
</tbody>
</table>

*serving size 70g (typical serving size declared by companies in Australia and New Zealand)

1 RACC - Reference Amounts Customarily Consumed Per Eating Occasion

Table 4: Comparison of minimum amounts of dietary fibre (g per serving) required for source and good source/high claims for breakfast cereal*, internationally

<table>
<thead>
<tr>
<th>Descriptors for dietary fibre nutrition content claims</th>
<th>Standard 1.2.7 2013</th>
<th>CoPoNC 1995</th>
<th>Canada 2003</th>
<th>EU 2006</th>
<th>Codex 2009</th>
<th>USA 2008</th>
</tr>
</thead>
<tbody>
<tr>
<td>Source</td>
<td>2 g per serving</td>
<td>1.5 g per serving</td>
<td>2 g per serving (reference amount is 30g, permitted serving size 20-45g)</td>
<td>1.2 g per serving</td>
<td>1.2 g per serving or 3 g per serving</td>
<td>2.5 g per 30 g RACC (Dietary Reference Value is 25 g dietary fibre per day)</td>
</tr>
<tr>
<td>Good source or high</td>
<td>4 g per serving</td>
<td>3 g per serving</td>
<td>4 g per serving (reference amount is 30 g, permitted serving size 20-45g)</td>
<td>2.4 g per serving</td>
<td>2.4 g per serving or 6 g per serving</td>
<td></td>
</tr>
</tbody>
</table>

*serving size 40g (typical serving size declared by companies in Australia and New Zealand)

1 For ready-to-eat breakfast cereals, puffed and coated, flaked, extruded, without fruit or nuts (20 g to 42 g per 250 ml), very high fibre cereals (with 28 g or more dietary fibre per 100 g)

2 RACC - Reference Amounts Customarily Consumed Per Eating Occasion

3 For breakfast cereals, ready-to-eat weighing 20 g or more but less than 43 g per cup; high fibre cereals containing 28 g or more of dietary fibre per 100 g

3 Submitter response to public consultation

FSANZ received 28 submissions in response to the consultation paper — 17 from industry stakeholders, four from public health stakeholders, six from jurisdictions and one from a consumer stakeholder group. The New Zealand Food and Grocery Council noted in its submission that companies not affected by the criteria in Standard 1.2.7 (as most or all of their product lines will meet the criteria) were not making a submission.
A summary of submitter responses to the questions asked in the consultation paper is provided at Attachment 1. The majority of industry submitters opposed the criteria in Standard 1.2.7 due to not being able to continue to make the same claims on some food products, in some cases not being able to readily reformulate foods to meet the higher criteria and the cost involved in making labelling changes or reformulating some products. Some industry submitters noted that they had already started to make labelling or product changes in order to comply with the requirements, while others had put such work on hold until the outcome of the consultation was known.

Of the six jurisdictions that made a submission, five were in favour of the qualifying criteria in Standard 1.2.7 for various reasons, including that they are more closely aligned with the approach for criteria for vitamin and mineral claims. One jurisdiction suggested that more information was needed in order to form a view.

There was a mixed response from the five public health and consumer submitters, with two supporting the criteria in Standard 1.2.7, one supporting the criteria in CoPoNC, one suggesting more information is required and the other not expressing a clear view.

Some industry submitters provided information on the number of foods that would not be able to continue to make the same claims under Standard 1.2.7, the likely costs involved in changing labels or reformulating foods and possible technical challenges with adding more dietary fibre to some foods. The percentage of foods carrying dietary fibre claims affected by the criteria in Standard 1.2.7 ranged from about 10% to just over 50% per company. The estimated costs for label changes are in accord with FSANZ’s understanding of typical costs for such changes. While some submitters noted that the cost of labelling changes could be reduced if the changes were combined with other labelling changes, others noted that they had few other changes to be made as a result of Standard 1.2.7. With regard to product reformulation, some submitters indicated that they had already reformulated some foods or had started reformulating. The estimated costs of future reformulation for individual companies ranged from A$20,000 to A$300,000. Refer to Attachment 1 for further information provided by industry submitters.

4 Discussion

In response to views and information provided by submitters, FSANZ has considered a number of issues relating to the qualifying criteria for nutrition content claims about dietary fibre in Standard 1.2.7.

As noted earlier, the higher qualifying criteria that were initially proposed at Draft Assessment and finally included in Standard 1.2.7 were largely based on the principle of, as far as possible, matching the approach for qualifying criteria for dietary fibre claims with the approach for criteria for claims about vitamins, minerals and protein. The qualifying criteria for nutrition content claims about vitamins and minerals had been in place since the mid 1990’s in Australia11 and were moved across to Standard 1.2.7 so that all requirements for nutrition content claims could be in one standard.

Several submitters to the 2013 consultation paper commented on the apparent lack of rationale to support the higher criteria. Some submitters (industry, jurisdictions and public health) commented that more information is required in order to be able to decide on the most appropriate qualifying criteria and that other criteria, such as the criteria in the Codex Guideline, should be considered in addition to those in CoPoNC and Standard 1.2.7. It was suggested that information would need to be gathered in the following areas:

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11 The qualifying criteria for nutrition content claims for vitamins and minerals had been in the Australian Standard A9 – Vitamins and Minerals for many years prior to a slight adjustment to the criteria for source claims in 1994 as part of Proposal P24 –Vitamins and Mineral Claims in Foods.
• industry response to a change in the qualifying criteria across the food supply (i.e. extent to which industry would remove claims, reformulate to maintain claims noting the type of dietary fibre used is of interest, or reformulate to remove dietary fibre)
• technical challenges with increasing the amount of dietary fibre in foods
• cost to industry of labelling or reformulation in order to comply with the qualifying criteria
• effect of the nutrition content claims on population intake of dietary fibre
• consumer use/understanding of levels of claims (source, good source, excellent source)
• whether consumers might be confused from a downgrade or loss of dietary fibre claims.

FSANZ considers that even if such work was undertaken, it could be difficult to arrive at a clear outcome. For example, in some companies, other changes to labelling and food formulations are also being made in response to Standard 1.2.7 and if these are undertaken with changes in response to the qualifying criteria, the estimated costs which are based on making changes in isolation, could be reduced.

As reflected in submissions (refer to Attachment 1), arguments can be made in support of the qualifying criteria in both CoPoNC and Standard 1.2.7. For example, some submitters in support of the CoPoNC criteria claimed that the higher criteria in Standard 1.2.7 could lead to industry reducing the amount of dietary fibre in foods due to technical issues or the cost of adding more dietary fibre, thereby resulting in a reduction in dietary fibre intakes. In contrast, other submitters commented that the higher criteria may provide an incentive for reformulation to increase the amount of dietary fibre in foods, noting that other claim criteria have had this effect. It is difficult to know which response to the higher criteria may eventuate and indeed whether an increase or decrease in the dietary fibre content of foods carrying claims would affect population intakes of dietary fibre. Product information provided by ten submitters for approximately 750 foods currently carrying dietary fibre claims, indicated that around 22% (168) of these foods would be affected by the higher claim criteria. These foods include a selection of frozen vegetables, breads, muesli type bars, breakfast cereals, breakfast drinks, canned fruit and nuts.

Given that dietary fibre claims can be and are made on a large range of foods, from the information received from submissions we were unable to assess the effect of the higher criteria on industry more broadly. While FSANZ acknowledges that some foods may not be able to continue to carry the same dietary fibre claim (i.e. source, good source or excellent source claims) it is not clear from the information provided whether this is likely to be a consistent problem across the food industry. In addition, it appears that companies are at varying stages of responding to the qualifying criteria in Standard 1.2.7. While some submitters indicated that the consultation had created uncertainty and therefore they had put work relating to the criteria on hold, others indicated that they had already made changes and that their foods were compliant with the criteria in Standard 1.2.7. FSANZ is aware that some companies that had already made label or product changes in response to the qualifying criteria did not make submissions.

Several submitters commented on technical challenges associated with increasing the dietary fibre content of some foods. While FSANZ acknowledges that this is likely to restrict the reformulation of some foods to meet the higher qualifying criteria, the extent of this problem across the food industry is difficult to ascertain from submissions received. In addition, product reformulation is clearly a business decision and not a requirement of the qualifying criteria per se.

Seven submitters provided cost estimates for labelling changes. It is difficult to assess the significance of this cost for industry from the information provided as this depends on a
number of factors including the size of the business, the value of individual products, how many choose to reformulate and how many choose to change their labels. As previously discussed, a cost-benefit analysis was carried out under Proposal P293, which analysed the anticipated costs and benefits of the draft Standard as a whole. It was considered that although the benefits were not evenly distributed across types of food and that food businesses may profit from new opportunities but incur costs due to lost opportunities or increased costs of compliance, the draft Standard would provide net benefit overall. Therefore, in the context of the whole Standard, while some companies may incur costs in complying with the qualifying criteria for nutrition content claims about dietary fibre, the same companies may profit from opportunities that other aspects of the Standard provide.

In response to the question in the consultation paper about whether consumers may be confused if nutrition content claims about dietary fibre are changed in response to the criteria in Standard 1.2.7, some submitters claimed that confusion could arise from either a downgrade or loss of claim, however no evidence was provided to support this view. In addition, some submitters claimed consumers are influenced more by good source than source dietary fibre claims, but again little evidence was supplied. FSANZ research on nutrition content claims found that generally macronutrient claims on foods of lower nutritional value did not enhance consumers’ intentions to purchase when compared with foods without claims (Roy Morgan Research 2008). However, in the specific cases of an increased fibre or good source of fibre claim on a breakfast cereal of lower nutritional value, these claims had the effect of reducing the reported purchase intention for the food in comparison to the identical food without the claim. That is, the claim reduced reported purchased intention, though it had no effect on evaluations of product nutritiousness.

FSANZ has been unable to identify any research that assesses the effect of different levels of a nutrition content claim on consumer behaviour (i.e. source, good source, excellent source). It is also important to note that consumers who may be particularly interested in the dietary fibre content of foods are able to obtain such information from the nutrition information panel, when provided.

5 FSANZ response

In summary, FSANZ considers that it is not clear from the available information whether there is a consistent problem across the food industry in relation to the qualifying criteria for nutrition content claims about dietary fibre. In addition, some companies have already made label or formulation changes in response to the new Standard. FSANZ concludes that seeking further information and evidence on which to base a decision to change the qualifying criteria in Standard 1.2.7 is not warranted.

FSANZ has therefore decided to maintain the qualifying criteria for nutrition content claims about dietary fibre in Standard 1.2.7 for the following reasons:

- Standard 1.2.7 was gazetted in January 2013. Clear evidence of a problem is required as a basis for a change to a standard in the Australia New Zealand Food Standards Code. At this early stage in the transition to Standard 1.2.7 provisions, there is no clear evidence of a consistent problem with the qualifying criteria across the food industry.

- Arguments have been made in support of the qualifying criteria in both Standard 1.2.7 and CoPoNC, however, there is little evidence or information available that can be used to determine the validity or significance of the arguments. This is partly because the qualifying criteria were largely based on the principle of, as far as possible, matching the approach for the qualifying criteria for dietary fibre claims with the approach for criteria for claims about vitamins, minerals and protein. While it could be

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12 In this study, the term ‘lower nutritional value’ referred to foods that did not meet the nutrient profiling scoring criterion.
possible to gather further information to investigate, for example, the extent to which technical issues restrict compliance with the criteria in Standard 1.2.7 across the range of foods currently carrying dietary fibre claims, obtaining information in other areas such as industry costs is likely to be more difficult and therefore a clear outcome may not eventuate. In addition, specific research would need to be undertaken to investigate the consumer response to a downgrade or loss of claim.

- Industry is most concerned with a potential downgrade of claims (not loss). In many cases, a dietary fibre claim will still be able to be made. Standard 1.2.8 includes a provision to permit the declaration of dietary fibre in the nutrition information panel if the level of dietary fibre is less than 2 g/serving, therefore declarations of dietary fibre in the nutrition information panel can continue.

- The cost-benefit analysis for the whole of Standard 1.2.7 recognised that costs and benefits of the Standard were not evenly distributed across all foods. Therefore, consideration of the costs associated with compliance for a single claim, such as a nutrition content claim about dietary fibre, does not take into account the overall net benefit that was determined for the Standard.

- Some submitters noted that the cost of label changes can be minimised if combined with other changes, however FSANZ notes that others claimed that the cost of labelling changes are significant as they do not have any other changes to make in response to Standard 1.2.7. The three year transition period for Standard 1.2.7 was intended to help to mitigate the costs of compliance.

- Some companies have already made changes to the formulation of foods or food labels in order to comply with the qualifying criteria.

- The qualifying criteria were considered during a lengthy standards development process and agreed to by ministers in 2008. The criteria were not raised by ministers as a matter requiring review in the review request for Standard 1.2.7.

6 Transition period for compliance with qualifying criteria

A number of industry stakeholders commented on the length of the transition period of Standard 1.2.7 in submissions, for two main reasons. Firstly, some submitters commented that three years is optimal for foods with a long shelf life in order to minimise product write-offs. Secondly, some industry submitters asked that the transition period be extended by 12 months for this particular issue irrespective of the outcome of the consultation, because they have delayed making label changes due to the uncertainty created by the public consultation. However, others noted that if the outcome of the consultation was finalised by early 2014, then the remaining two years of the transition period would be sufficient.

At this stage, FSANZ considers that the remaining two years of the transition period will give most companies sufficient time to comply with the qualifying criteria for nutrition content claims about dietary fibre and therefore is not intending to change the transition period. However, we will consult with jurisdictions involved in the implementation of the Standard to alert them to any feedback from industry on compliance with this particular aspect of the Standard.

References


Attachments

1 Summary of submitter comments from the 2013 consultation on qualifying criteria for nutrition content claims about dietary fibre
Attachment 1: Summary of submitter comments from the 2013 consultation on qualifying criteria for nutrition content claims about dietary fibre

Should the qualifying criteria for nutrition content claims about dietary fibre in Standard 1.2.7 be changed to the levels in CoPoNC (question 7)?

Table 1 shows submitter views on whether the qualifying criteria for nutrition content claims about dietary fibre in Standard 1.2.7 should be changed to the levels in CoPoNC or not.

Table 1: Submitter views

<table>
<thead>
<tr>
<th>Stakeholder group</th>
<th>Submitter views on changing criteria in Standard 1.2.7 to those in CoPoNC</th>
<th>Total number of submitters</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>NO, do not support changing to CoPoNC</td>
<td>YES, support changing to criteria in CoPoNC</td>
</tr>
<tr>
<td>Industry</td>
<td>1</td>
<td>13</td>
</tr>
<tr>
<td>Jurisdictions</td>
<td>5</td>
<td></td>
</tr>
<tr>
<td>Public health</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>Consumer</td>
<td></td>
<td>1: Unclear</td>
</tr>
<tr>
<td>Total number of submitters</td>
<td>8</td>
<td>14</td>
</tr>
</tbody>
</table>

Key reasons given by submitters in support of the qualifying criteria in Standard 1.2.7 (i.e. not changing to the criteria in CoPoNC) include:

- There is no new evidence to justify changing to CoPoNC criteria.
- CoPoNC is out of date. With the use of fibre ingredients, the argument for 1.5 g/serve to enable white bread to carry a source claim may not still be valid.
- CoPoNC criteria are misleading because 20 serves of food with source claims are needed to meet the reference value (compared with 10 serves for other nutrients).
- Standard 1.2.7 criteria are still lower than the 10%/20% Codex criteria; CoPoNC criteria are even less consistent.
- Criteria in Standard 1.2.7 have been anticipated for some time.
- The 1995 Australian nutrition survey indicated most adults did not meet the recommended fibre intake. Claim criteria have been found to drive reformulation, therefore with higher criteria; there will be an incentive for reformulation.
- 30 g/day is lower than the Suggested Dietary Targets for prevention of chronic disease (28 g/day women; 38 g/day for men). Therefore, only products with a meaningful contribution to reference value should be able to make a source claim.
- The modelling system underpinning the revised Australian Dietary Guidelines used higher fibre grain foods as those with more than 5 g/100 g.
- Any amount of dietary fibre can be declared in the nutrition information panel.
- White bread can carry source claims under CoPoNC – don’t support this as suggests white bread may be a healthier choice than wholegrain. Consumption of wholegrain breads should be encouraged. Oats, bran, and majority of wholegrain breads qualify for good source or excellent source claims under Standard 1.2.7.
- Use dietary fibre in fruits and vegetables as the benchmark (and not bread as was originally used) due to wider health benefits of fruits and vegetables. Standard 1.2.7 allows for wider range of fruits and vegetables to meet source claims (2-4 g/serve as opposed 1.5-3.0 g/serve). A 100% whole wheat grain product and other 100% wholegrain products eg oats, should be the benchmark for allowing a good source claim.
Key reasons given by submitters in support of the CoPoNC criteria include:

- CoPoNC had majority support at Draft Assessment and Preliminary Final Assessment during development of Standard 1.2.7.
- Standard 1.2.7 criteria are inconsistent with Australian Dietary Guidelines which list a number of foods are ‘high’ in fibre. Some of these foods do not meet criteria for good source claims. For example, breads, rice, pasta, noodles, polenta. Guidelines promote fibre consumption however higher criteria will mean fewer claims. Also may create disjunct between serving sizes in guidelines and serving size necessary to retain a good source claim.
- Wholegrains and core foods may not meet the criteria for good source (e.g. weetbix, wholemeal sandwich bread, oats). For wholemeal flour, reformulation is not an option due to compositional requirements to meet the definition of ‘wholegrain’. The serving size recommended by the former Australian Guide to Healthy Eating of 40 g is currently used and high in fibre claimed at 3.4 g/serve. Serving size would have to be manipulated to at least 50 g. If the serving size in the new Australian Guide to Healthy Eating for flour (30 g) was used, this would drop fibre per serving to 2.6 g (source).
- Under CoPoNC, more horticultural produce, nuts and generally a greater range of foods can carry claims, therefore there is more information for consumers. Some horticultural produce cannot increase serving sizes, eg apples (and single serve size foods), and cannot reformulate. Would prefer not to increase serving size as are trying to move to 75 g (or multiples of 75 g i.e. 150 g) standard serving sizes to reflect the Australian Dietary Guidelines serving size for vegetables.
- Industry has put significant resources into meeting CoPoNC criteria. Given pressures on industry to avoid price rises, reformulation may not happen.
- Higher criteria will mean loss and downgrading of claims – this may lead to consumer confusion and consumers may think fibre levels have decreased.
- Lack of evidence to support increased criteria (consumer research, impact on fibre intake, impact on foods, impact on whole foods, technical challenges, cost to industry).
- Aligning with the criteria for vitamins and mineral claims (10% and 25% of the reference value) may not be appropriate for macronutrients. The change to 6.67% of the reference value appears arbitrary and does not achieve consistency across nutrition content claim criteria.
- Criteria of 2, 4 and 6 g are equivalent to 5%, 10.5% and 18% of the Canadian AI. Applying the same rationale for the Australian fibre AI, the qualifying criteria are more similar to CoPoNC levels.
- Industry may respond to higher criteria by reducing fibre rather than increasing therefore fibre intakes could decline (cost (reformulation, labelling), technical issues). Many products are just over the 3g threshold and require 25% increase.
- Higher criteria exceed criteria of other groups – NHF (3 g/serving), GI symbol program (3 g/100 g).
- Higher criteria may result in increased serving sizes – contrary to public health messages.
- Higher criteria have greater impact on small serve sizes.
- Non-cereal sources of fibre may be added if higher criteria remain. There is debate over whether non-cereal sources are as beneficial as cereal sources of fibre.
- CoPoNC criteria are more consistent with Codex and EU.

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13 FSANZ believes the Australian Dietary Guidelines may have been misunderstood. The Guidelines state: Include grain (cereal) foods, mostly wholegrain and/or high cereal fibre varieties, such as breads, cereals, rice, pasta, noodles, polenta, couscous, oats, quinoa and barley. This statement may not mean that breads, cereals, rice, pasta, noodles, polenta, couscous, oats, quinoa and barley are all high in fibre.
What foods sold that currently carry nutrition content claim about dietary fibre do not meet the qualifying criteria in Standard 1.2.7 (Question 1)?

Ten submitters provided information on foods currently carrying nutrition content claims about dietary fibre that would not be able to continue to carry the same claims under Standard 1.2.7 (unless the food is reformulated or the serving size is changed). For these submitters, the percentage of foods carrying dietary fibre claims affected by the criteria in Standard 1.2.7 ranged from about 10% to just over 50%. In total, submitters claimed that 168/752 foods (22%) currently carrying fibre claims (excluding one submitter who had altered products to be compliant with the new criteria) would be affected by the criteria in Standard 1.2.7 (264/991 SKUs (27%)).

What would be the costs to change or remove nutrition content claims about dietary fibre on food labels in response to the qualifying criteria in Standard 1.2.7? (Question 2)

Eight submitters provided cost estimates for labelling changes. The costs ranged from A$1500 to A$8000 per SKU, with the number of SKUs affected ranging from 5 to 69 SKUs. The highest direct cost from the eight submitters was A$8000 per SKU. One submitter estimated there would be AUD$200-$300,000 in lost sales if the criteria in Standard 1.2.7 remain. Two submitters provided indirect costs of around A$500 per SKU if the transition period is not extended.

What would be the cost of reformulation to meet the qualifying criteria in Standard 1.2.7 and/or the cost of reformulation already undertaken? (Questions 3 and 5)

Ten submitters provided information on reformulation. Some of these submitters indicated that where necessary, they have already reformulated their foods or have started reformulating, in order to meet the criteria in Standard 1.2.7, but costs already incurred were not provided. One company indicated it had spent A$67,515 on the reformulation of one food to meet the new criteria – work is ongoing and whether the reformulation will be successful is still to be determined.

The estimated costs of future reformulation for individual companies ranged from A$20,000 to A$300,000. The Grains Legumes and Nutrition Council estimated that the overall cost to the grains and legume manufacturing industry would be at least A$1.7 million for reformulation changes.

Some submitters indicated that there could be technical challenges with reaching the criteria in Standard 1.2.7 for some products via reformulation. For example, the addition of fibre can affect texture and viscosity, processing conditions, sensory characteristics, shape and general appearance, ability to maintain serving size, expansion of extruded cereals, shelf life, wholegrain content and dough structure.

What changes to nutrition content claims about dietary fibre on food labels in response to the qualifying criteria in Standard 1.2.7 have already been made? (Question 4)

Six out of the nine submitters that answered this question indicated that they have already made changes to nutrition content claims about dietary fibre on food labels. The number of SKUs for which labelling changes had been made by each company ranged from 3 to 14 and the total costs ranged from A$10,000 to A$20,000.
What would be the commercial impact if the qualifying criteria for claims about dietary fibre in Standard 1.2.7 were changed to the criteria in CoPoNC? (Question 6)

There was a range of comments in response to this question. While one submitter noted that the impact would depend on the number of products that had been changed to comply with Standard 1.2.7, others noted that since the CoPoNC criteria are less restrictive, labelling changes could be made over time with minimal commercial impact. One submitter stated that the impact would be significant in terms of the equity that has developed in consumers valuing certain products as high fibre foods. Another submitter indicated that as all their products were compliant with the criteria in Standard 1.2.7, label changes would need to be made in order to remain competitive and that there would be costs associated with this.

Would consumers be confused if nutrition content claims about dietary fibre that currently comply with the qualifying criteria in CoPoNC are changed in response to the qualifying criteria in Standard 1.2.7? Is there any evidence to support your view? (Question 8)

No evidence was provided in response to this question. Very limited evidence was cited in relation to the impact of claims and different levels of claims on consumer intention to purchase. While some submitters claimed that consumers are not likely to know about qualifying criteria and therefore changing them is not likely to confuse, other submitters suggested that consumers may notice a change in claims which could result in lack of trust in food companies. In addition, consumers may not understand why a claim has been downgraded or why the product suddenly costs more.