



9th March 2023

Food Standards Australia New Zealand PO Box 5423
KINGSTON ACT 2604
By email: submissions@foodstandards.gov.au

Dear Sir/Madam,

RE: P1010 – Review of Formulated Supplementary Sports Foods

As an Australian and New Zealand owned business, with two Australian founders, and one New Zealand, and a number of Australian retail investors following a successful Crowd funding campaign in 2018, we thank you for the opportunity to make this submission, particularly given to the impacts of P1054 Pure and highly concentrated caffeine products on the classification, and potential compliance of our energy strips, which we supply to many leading sports teams and Olympic athletes, via the Australian Olympic Committee at the Tokyo games, and HPSNZ, as well as thousands of recreational athletes and gym goers.

As High Performance Sports New Zealand (**HPSNZ**) noted in their 2021 submission;

We would be concerned that removal of such products (Revvies Energy Strips) could increase the use of internet purchasing from foreign sources and obtaining products that are not tested. There is a risk access and use of preferred caffeine products could go ‘underground’ where product risk is much greater to health and wellbeing (e.g. mixed ingredient products, questionable quality assured serving sizes, and products contaminated/spiked with scheduled substances).

Restricting the availability and range of currently suitable products will pose a much greater challenge for NZ athletes and HPSNZ to source quality and appropriately tested product.

This is still a very real risk for both Australian and New Zealand elite athletes and recreational and club athletes.

We submit our responses to selected question of the review for your consideration with the hope that the amendments of the sports food standard will create a better statutory framework to protect consumers, whilst also allowing product innovation and providing Revvies Energy Strips an appropriate category to continue to provide benefit to our growing number of users both elite and recreational.

Responses to Questions:

Market Overview

Q1. For industry or regulators, do you have market or product data or information that you would like to provide to update FSANZ’s understanding of the current sports food market in Australia, New Zealand or globally?

Due to changes brought in by the Pure and High concentration caffeine in of caffeine limits the Australian and New Zealand regulatory framework moved out of step with other markets where Revvies Energy Strips is classified as a supplemented food, for example in the UK and EU.

Changes to the FSSFs Standard to allow up to 200mg of caffeine per serve, would potentially provide an opportunity for products such as Revvies Energy Strips to reclassify. This would require that products classified as FSSFs be exempt from the maximum 5% concentration in the P1056 caffeine review. One of the key benefits for users is that it does not contain liquid, and dissolves in the mouth, therefore the high concentration is a key benefit.

To further bring the FSSF Standard into line with international markets and to allow a reclassification of products such as Revvies strips, it would additionally require that food additives that are permitted for food supplements in the EU, to be permitted in ANZ.

It would also be useful for clarification by FSANZ that oral strips, cannot and are not considered tablets, pills or capsules. If there was such an interpretation it would again put Australia and New Zealand out of step with other markets by placing oral strips in the medical/therapeutic realm.

Definitions

Q2. As a consumer, regulator or industry stakeholder, have you identified any issues resulting from the definitions in the Code? If so, what are they and why are they an issue?

We believe that the 'one-day quantity' – approach fails to draw user attention to other amounts of an ingredient or ingredients that may be consumed through other products or foods during the course of a day, and this could provide a false sense of safety.

We support the use of total daily limits and wording such as "Do not exceed XXmg of <ingredient> per day considering all sources."

Furthermore, it may be advisable to have an intake limit for ingredients such as caffeine, such as "Do not exceed 200mg of caffeine in one intake, and 400mg a day considering all sources."

Current Compositional Permissions

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

This approach could be useful and it could be based on the AIS's ABCD Classification system that ranks sports foods and supplement ingredients into four groups according to scientific evidence and other practical considerations that determine whether a product is safe, permitted and effective in improving sports performance.

Those that are third party tested through programs such as Informed Sport, and fall into Groups A or B and at levels in line with protocols for use could be low risk, those in Groups A and B but not independently batch tested could be medium risk, and those not in groups A and B, or in A and B but at higher levels than supported by protocols could be considered high risks.

Labelling

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

Nutritional Information Panel for a supplement takes up significant space on labels, and provides little meaningful information. And the requirement to have a column that has a listing

per 100g further exacerbates the problem. For example, a Revvies strip weights 200mg, so 100g is 500 strips, with a maximum recommended limit of 5 per day it would take 100 days for the user to consume the amount on the label.

We recommend the Code be amended to exempt items with a serving size of less than 1 gram from having to include a NIP, but rather just list the amounts of the nutrients as the energy content, protein, fat, saturated fat, carbohydrate, sugars and sodium will be insignificant and the information meaningless.

Q19. To inform the scope of the second consultation paper, do you have any views on how Standard 1.2.7 – Nutrition, health and related claims could apply to sports foods?

We strongly believe that the extensive, on-going, and internationally recognised work of the Australian Institute of Sport be used to guide to determine whether marketing claims relating to sports foods and ingredients can be claimed, and that this should be based on the AIS's ABCD Classification system that ranks sports foods and supplement ingredients into four groups according to scientific evidence and other practical considerations that determine whether a product is safe, permitted and effective in improving sports performance.

It is our strong belief that products that contain ingredients in Group A should be able to claim that the sports food or supplement ingredient "can support or enhance sports performance" in ways that align with AIS findings. (This wording is taken from the AIS website for group performance supplements https://www.ais.gov.au/nutrition/supplements/group_a).

Group A Performance supplements which based on AIS research can support or enhance sports performance are currently limited to just six ingredients Caffeine, B-Alanine, Dietary Nitrate, Sodium Bicarbonate, Creatine, and Glycerol.

We believe that to support product innovation, products and ingredients in Group B should be allowed to claim that "There is emerging scientific support, deserving of further research that<the Sports food/ingredient> may support or enhance sports performance" in ways that align with AIS findings for the sports food or supplement ingredients. Finally, it is our belief that products and ingredients classified in groups CD or unclassified, be restricted from making any claims relating to supporting or enhancing sports performance.

We believe that a position that ignores the work of the AIS fails to provide the community with the best possible information on product performance and safety that could aid their selection of appropriate products, such a position could restrict all FSSFs products from making claims or allowing all FSSFs products to make claims.

CONCLUSION

Lastly, we believe that a 36-month transition period should be provided to allow products that are currently for sale in Australia and New Zealand to amend packaging or formulations to become compliant under a new standard.

We thank you again for the opportunity to input into this review, should you require any further action please don't hesitate to contact me [REDACTED]

Kind regards,

[REDACTED]