

Comment on Draft Nutrition, Health and Related Claims Standard

Proposal P293

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Submitters Name: Agencies for Nutrition Action (ANA)¹

Contact:

Nicola Chilcott
Executive Director, ANA
PO Box 5680
Wellington 6145
04 499 6362
0274 422051
nicola@ana.org.nz

Comments in this submission are confined to Part 2 of the consultation document, that is, the fat free and % fat-free nutrition content health claims due to the concerns that such claims may mislead consumers.

Question 2

What evidence can you provide that shows consumers are purchasing foods of lower nutritional quality because they are being misled by fat-free or % fat-free claims?

FSANZ is primarily interested in the substitution of foods of higher nutritional quality with foods of lower nutritional quality which have fat-free claims. Substitution within a general food group (e.g. choosing a different confectionery product) is of lesser importance.

(Note: Please provide documented or validated evidence where possible)

Comments

Research on the impact of health claims on consumers' food and beverage purchasing behaviour is sparse. Consumer research has tended to focus on knowledge and understanding of health claim labeling, however whether this translates in to influencing consumers purchasing foods based on health claims is unknown.

ANA would like to emphasise that the absence of evidence is not evidence of absence. To be able to answer this question consumer research needs to be conducted on purchasing behaviours of consumers.

Regardless ANA believes there is some evidence to support fat free and % fat free claims as having the ability to mislead consumers, especially those from low income, Māori and Pacific communities. It is these communities that have the

¹ Agencies for Nutrition Action – Ngā Takawaenga Hāpai Kai Hauora (ANA), is an incorporated society, umbrella NGO established in 1992 10 members of which are major NGO's with a common interest in public health nutrition and physical activity. Our main focus of work and experience is in population activity health promotion

The members of ANA are the Heart Foundation, Cancer Society, Te Hotu Manawa Māori, Diabetes New Zealand, Dietitians NZ, NZ Nutrition Foundation, Stroke Foundation, Pacific Island Food and Nutrition Action Group, Diabetes NZ, Home Economics and Technology Teachers Assoc, NZ Recreation Assoc and The Asian Network Inc.

most to gain when health promotion legislation works for them as they bear a disproportionate burden of nutrition related disease. Gorton, D et al¹ surveyed 1,525 people and found that % fat free nutrient content claims are frequently misinterpreted by shoppers as meaning the food is healthy overall. Results showed Māori, Pacific, Asian and low income groups were most likely to be misled.

Hence further research should capture indigenous, culturally and linguistically diverse populations. It is important that we create an environment where all New Zealanders are able to understand what is in their food. While one system may not suit all, a system that works for high need groups will most likely work for the general population. The reverse is unlikely to be true.

As research conducted by Gorton et al¹ shows, there were significant differences between high income and low income shoppers. The low income shoppers were more likely than medium or high income shoppers to assume that the presence of a fat free claim meant the food was healthy.

Question 3

Do you support option 1 (status quo), option 2 (voluntary action through a code of practice), or option 3 (regulate with additional regulatory requirements for fat-free and % fat-free claims)? Please give your reasons.

Comments

ANA supports 3 (a) - to regulate with additional regulatory requirements for fat-free and % fat-free for the following reasons:

- This option has been developed to restrict the use of health claims on products considered to be of lower nutritional quality.
- This option would permit fat free and % fat claims only on foods that meet the nutrient profiling system and would be consistent with other foods. ANA supports fat-free and % fat free claims to be treated as a health claim.

However it would be necessary to know what food categories and the extent of the types of foods within each category that may not be captured. This is necessary to ensure the system is consistent and does not cause consumer confusion.

Whereas:

Option 1 - ANA is not convinced that consumer law would safe guard fat-free claims if it relied on consumer complaint. A proactive monitoring and enforcement process would be needed.

Option 2 - Reliance on the food industry sector to consider and comply with public health objectives on a voluntary basis, with or without stakeholder consultation, is unlikely to occur. Further concerns in regards monitoring and enforcement also applies.

Option 3 b – We are concerned about the unnecessary clutter of nutrition labeling on packets and the amount of words that would need to be used to convey this message. This option would involve a two stage process for the consumer to interpret the nutrition label – front of pack labeling and then reference to the NIP which seems unnecessarily complicated for “at a glance” system for the consumer.

Option 3 c - it would seem this option is too complex to administer to truly represent those foods that need to be included and those foods that should be excluded.

Option 3 d – We are not concerned that dried fruit may not be labeled fat-free or % fat as there is an appreciation that dried fruit contains significant amounts of sugar (even with the additional benefits of fibre, vitamins and minerals) and is energy dense so should be eaten in small amounts.

Because of the inconsistencies FSANZs noted we also would be concerned about consumer confusion in interpreting the health claim.

We hope these comments will be useful in your deliberations.

Nicola Chilcott

Executive Director

References

- 1** Gorton D, Mhurchu CN, Bramley D, Dixon R (2010) Interpretation of two nutrition content claims: a New Zealand survey. Australian and New Zealand Journal of Public Health 34(1):57–62.