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**Submission to Proposal P293 Nutrition, Health & Related Claims Consultation
Paper for First Review from The New Zealand juice and Beverage Association**

The New Zealand Juice and Beverage Association (NZJBA) is the industry association representing the interests of manufacturers, their franchisers and suppliers, of juice based beverages, carbonated/non-carbonated drinks and bottled water in New Zealand. Production by NZJBA bottler members equates to over 95% of all water and juice based beverages sold in New Zealand as well as products exported internationally.

The NZJBA values the opportunity to review and comment on the Proposal P293 Nutrition, Health & Related Claims Consultation Paper.

The NZJBA will support a legislative framework that will allow:

1. Innovation within the food industry
2. Supports worldwide trends
3. Meets consumer demands
4. Protects the interest of its members
5. The protection of consumer safety

The NZJBA has concerns with draft standard Proposal P293 and therefore does not support Standard 1.2.7 in its current form. Manufacturers have concerns where a nutrient dense beverage developed for specific health benefits may not meet criteria of NPSC due to its product composition, when there is clearly documented health and functional benefits.

This proposal would impact on innovation within the industry by removing the ability to make general level health claims about Sports beverages, Energy drinks (mental performance), and claims regarding fibre or hydration.

Please find further details in the submission response attached.

Kind Regards
New Zealand Juice & Beverage Association Inc

John R Robertson
Secretary/Treasurer
NZ Juice & Beverage Association Inc



Template for submissions – Proposal P293 – Nutrition, Health & Related Claims

To assist us in compiling submissions, please complete the tables below.

Table 1: Revised Draft Standard 1.2.7

<p>Submitter name:</p> <p>New Zealand Juice and Beverage Association</p>
<p>1. Does the revised drafting accurately capture the regulatory intent as provided in Attachment B (p65)? Please consider the clarity of drafting, any enforceability issues and the level of 'user-friendliness'.</p> <p>Regulatory intent:</p> <p>The 'one size fits all' health claim model is inappropriate as the original intent was to generate an appropriate selection criterion for foods and beverages for a tiered approach to high level and general level health claims.</p> <p>The NZJBA opposes the pre-assessment of general level health claims and the removal of self-substantiation of general level health claims.</p> <p>This proposal would impact on innovation within the industry if assessing a beverages nutritional merit via the NPSC. Removing the ability to make general level health claims about Sports beverages, Energy drinks (mental performance), and claims regarding fibre (for example in juice) or hydration. Permitted claims from this proposal will <u>discourage innovation</u> and development of beverages in New Zealand.</p> <p>Due to limitation on permitted claims on pack and in advertising, this is decreasing the opportunity for industry to participate in consumer education.</p> <p>Drafting;</p> <p>Concern is raised regarding the cost of implementing this system including increased costs for industry with regards to time, label and marketing changes, loss of opportunity costs, education and training.</p> <p>User friendliness;</p> <p>The NZJBA proposes an extended transition period of four years rather than two years should the proposal be accepted.</p> <p>A transition period of four years will allow for food-health relationships that are not yet approved to be assessed by FSANZ for inclusion within the transition period.</p> <ul style="list-style-type: none"> • This would include work FSANZ foreshadowed concerning the need for existing claims to be assessed. Allowing industry time to compile the appropriate information that will be required to accompany applications for assessment of claims or be held for self-substantiation. • Extending the transition period will allow FSANZ to assess health claims presently proceeding through the European Parliamentary system (and that have already been subject to rigorous assessment by the European Food Safety Authority) for inclusion in the standard.

Enforceability:

As noted in the consultation paper 'free' claims are regulated under fair trading and consumer protection laws, which in New Zealand is the responsibility of the Commerce Commission. Duplication of regulation should be avoided as it adds cost to government and industry with no additional benefit for consumers.

The industry would like to see the status quo remain re: fat free claims vs % fat free.

Confidentiality

The NZJBA is concerned about the confidentiality arrangements when an expert panel (from perhaps 5-8 organisations or agencies) and jurisdictions (10 departments across Australia and New Zealand) view and consider the applications.

Implementation of the confidentiality arrangements will be an important feature of the application process.

If not, please provide specific details in the table below. Ensure that the relevant clause number, schedule number or consequential variation item number that you are commenting on is clearly identified in the left column. Lines may be added if necessary.

Clause number	Comment
Schedule	Comments
Consequential variations	Comments

Table 2: Fat-free and % fat-free claims

Submitter name: New Zealand Juice & Beverage Association	
Question	Comment
<p>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?</p> <p>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.</p> <p><i>(Note: Please provide documented or validated evidence where possible)</i></p>	<p>The NZJBA has no evidence that the consumers are purchasing foods of lower quality because they are being misled by fat-free or % fat free claims.</p> <p>As noted in the consultation paper 'free' claims are regulated under fair trading and consumer protection laws, which in New Zealand is the responsibility of the Commerce Commission. Duplication of regulation should be avoided as it adds cost to government and industry with no additional benefit for consumers.</p>
<p>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.</p>	<p>The NZJBA is in favour of status quo, option 1</p> <p>Option 3 is unacceptable because it would lead to unnecessary costs that have not been demonstrated to benefit the consumer.</p>
<p>4. Please comment on the possible options for additional regulatory requirements for fat-free and % fat-free claims (option 3) (refer section 8) as follows:</p> <p>a. Which option do you support and why?</p> <p>b. What is an appropriate sugar concentration threshold for options 3(b) and 3(d)? Where possible, provide information and evidence to support your suggested threshold value.</p> <p>c. Are there other suitable options for additional regulatory requirements for fat-free and % fat-free claims? Please describe.</p>	<p>a) Additional regulatory requirements are rejected outright.</p> <p>b) NZJBA does not support sugar thresholds for nutrition labelling as it is not true reflection/assessment of the nutritional profile of the beverage/food. For example a nutrient dense beverage.</p> <p>c) As above</p>