

Attachment D – 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

Submitter name: Caroline Keast, Research and Development Technologist (see contact details above)	
<p>1. Does the revised drafting accurately capture the regulatory intent as provided in Attachment B? Please consider the clarity of drafting, any enforceability issues and the level of ‘user-friendliness’.</p> <p>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.</p>	
Clause number	Comment
Part 2 - Clause 8 - Claims not to compare vitamin or mineral content	<p>It is prohibited to make comparative claims about vitamins and minerals under clause 8. However it is potentially permitted to make comparative claims about other nutrients or properties under clause 15.</p> <p>Although clause 8 reflects current requirements for vitamins and minerals under standard 1.3.2, it seems inequitable to prohibit comparative claims about vitamins and minerals and allow on the other hand comparative claims about other nutrients (i.e. fat, fatty acids, protein, energy, and other components such as lycopene). This implies vitamins and minerals have been given a different status and have been differentiated from other nutrients. What is the basis for the differentiation? What are the reasons for prohibiting vitamin and mineral comparative claims and allowing other nutrient comparative claims?</p>
Part 3 - Clause 11 and Clause 12	<p>Under clause 11, nutrient content claims about a particular nutrient or property can only be made if the general conditions (if any) laid down in column 2 of schedule 1 against that nutrient or property are met.</p> <p>Under clause 12, nutrient content claims about properties not listed in schedule 1 can be made provided they meet the conditions laid down under this clause.</p> <ul style="list-style-type: none"> - For vitamins and minerals (schedule 1, pages 34-35), a nutrient content claim can be made if the serving contains at least 10% of the RDI or ESADDI. In addition, other conditions apply. If the conditions are not met, it cannot be stated that the food contains that particular vitamin or mineral. - For vitamins and minerals which do not have a RDI or ESADDI, it is however possible to claim the level that is present in a food, irrespective of what the level might be, under clause 12, according to attachment C, page 82.

	<p>First issue: It seems inequitable to prohibit nutrient content claims about vitamins and minerals when levels are less than 10% of the RDI or ESADDI, and to allow on the other hand nutrient content claims about vitamins and minerals without a RDI or ESADDI irrespective of what the level in the food might be.</p> <p>Second issue: If the intent of clause 12 is to allow nutrient content claims to be made about vitamins and minerals which do not have a RDI or ESADDI, it seems this is not entirely clear based on the current wording used in clause 12.</p> <p>Clause 12 says that “a nutrition content claim about a <u>property of food that is not mentioned in Schedule 1</u> may only state...”.</p> <p>It could be argued that clause 12 does not apply to vitamins and minerals without a RDI or ESADDI, because when applied literally, “vitamin or mineral” identified as the property of food in column 1, is listed in schedule 1.</p>
Schedule	Comments
Schedule 2, Part 3, Protein	<p>A specific health effect can be made in relation to the normal growth and development of:</p> <ul style="list-style-type: none"> - infants aged 6 months to 12 months, and - children 4 years and over. <p>What about children between 1 year and 4 years? It seems illogical and inconsistent to be missing this age group.</p>
Consequential variations	Comments

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

Submitter name: Caroline Keast, Research and Development Technologist (see contact details above)	
Question	Comment
<p>1. 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>No comment</p>
<p>2. 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>Would support option 1 or option 3 because option 2 is likely to be difficult to implement and ineffective if views differ significantly between food industry sectors.</p>
<p>3. 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> <ol style="list-style-type: none"> 1. Which option do you support and why? 2. 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. 3. Are there other suitable options for additional regulatory requirements for fat-free and % fat-free claims? Please describe. 	<p>No comment</p>