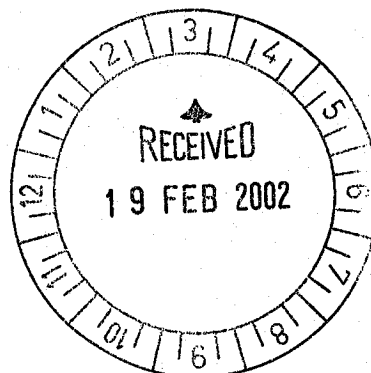


**Complementary
Healthcare
Council
of
Australia**

██████████
Senior Nutrition Advisor
Food Product Standards
Australian New Zealand Food Authority
PO Box 7186
Canberra MC ACT 2610

SCANNED



██████████
Please find enclosed the Sports Supplement Industry Development Group (SSIDG) response to proposal **"P236 - Development of Joint Food Regulations for Sports Foods"**.

The proposal has been prepared as a joint industry response. The Sports Supplement Industry Development Group (SSIDG) represents the vast majority of Australian and New Zealand manufactures, wholesalers, retailers, exporters and importers of sports supplement products.

I trust that you will give our response due consideration and include the SSIDG, as the peak body representing the sports supplement industry, in any further consultation regarding the development of a new sports supplement standard.

The SSIDG members have requested a meeting with you to discuss the Proposal 236 industry comments. I will be in contact later this month to try and arrange the meeting.

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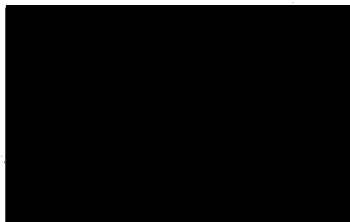
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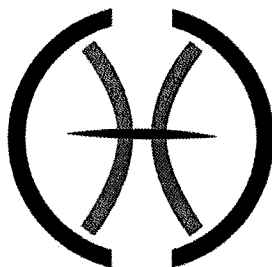
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Yours faithfully



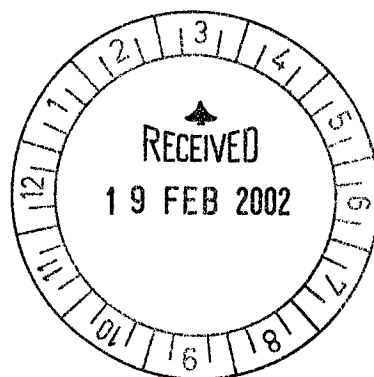
Technical Director

February 18, 2002



*Complementary Healthcare Council
of Australia*

Enhancing Health and Wellbeing...naturally



**INDUSTRY RESPONSE ON
ANZFA's
INITIAL ASSESSMENT**

**PROPOSAL 236
DEVELOPMENT OF JOINT FOOD
REGULATIONS
FOR SPORTS FOODS**

February 18, 2002

Prepared by [REDACTED]
Technical Director
Complementary Healthcare Council (CHC)

On behalf of
Sports Supplement Industry Development Group (SSIDG)

FOREWARD

This submission represents the collective considerations of the Sports Supplement Industry Development Group (SSIDG). The Sports Supplement Industry Development Group (SSIDG) is a newly formed sub-group of the Complementary Healthcare Council of Australia (CHC). The group has been established as the primary communication point for addressing all issues relating to the sports supplement industry in Australia and New Zealand. Membership is bound by the CHC industry "Code of Practice", the code has been acknowledged by Australian legislators as being an example of excellence in industry commitment to self governance. (A copy of the code is enclosed)

Membership of this sub group represents 85% of all sports supplement products of either Australian or international origin sold in the Australian and New Zealand market place. Retailers, local manufactures, wholesalers, exporters and importers of sport supplements are all equally represented within the group. Members manufacture or distribute sports supplement products ranging from those aimed at specific niche markets to main stream mass-market type products.

SSIDG appreciates having the opportunity to provide late comment on the initial assessment of the proposal "*Development of Joint Food Regulations for Sports Foods*" P236. As demonstrated above, SSIDG represents the majority of interested parties in the Australian and New Zealand market place and as the peak sports supplement industry body, we would be pleased to discuss with ANZFA any of the issues raised in this report.

1. Introduction

SSIDG members are totally committed to ensuring that the integrity of sports supplements, with regard to consumer health and safety, is maintained within the Australian market place. The stated purpose of the proposal is to seek public comment on reducing the current level of regulatory complexity by the introduction of a joint food regulation for sports foods. Whilst the SSIDG

- ✱ members agree with the proposal to develop a new joint standard for sports foods. It should not be necessary to have more stringent regulatory requirements than the rest of the world, as it has not been demonstrated that sport supplements need to have unique standards set for them within Australia and New Zealand. It is recommended that an approach consistent with international initiatives be taken to reduce the risk of creating any potential unnecessary obstacle to international trade.

The sports supplement industry covers an extremely diverse cross section of end users, ranging from elite athletes wanting to enhance their performance to just active people wanting to supplement their diets to improve their health and wellbeing. A sports supplement by name, is something that is taken in conjunction with sporting activity. The development of a new sports supplement standard must primarily take into account the genuine needs of the sports athlete, and it must, as a secondary function provide the necessary product information to non target consumers buying the products. Labeling must at all times protect children and other sub groups that may be at risk.

1. Objectives and policy

Are these policy principles appropriate to underpin the development of joint regulations?

SSIDG acknowledges that the principles identified in 1995 remain valid today.

Any development of policy in relation to sports supplements must primarily take into account the specific nature of the target market for which these products are designed. Products must satisfy the target audience's needs and provide health and safety information to all other consumers, allowing them to make an informed choice regarding the use of the products.

Clearly missing from the objectives of the proposal is the need to harmonise with international standards. Conditions for sale of sports supplements in Australia are not unique. A major objective of the proposal must be to reduce or remove any barriers to international trade that may have existed within the past.

This includes addressing within the proposed framework a timely mechanism for taking into account the existing variety of sports foods available. Many of which do not comply with any of the current standards, but have been used by Australian and New Zealand sports people without any deleterious effects for a long period.

The development of any new standard for sports supplements must take into account the ever-increasing advances in technology within the sports supplement industry. An objective of the policy principles must be to develop a standard that is broad enough not to stifle innovation and one that allows Australian companies to react quickly to changes within the international knowledge base.

2. Preferred regulatory Option

The SSIDG supports - Option 3.

Before a co-regulatory system could operate successfully it would require regulatory under-pinning that would allow for the application of meaningful and enforceable sanctions for any breach of the legislative provisions. Currently enforcement of Food Standards is delegated to the poorly funded, over burdened and under resource State Health Departments. If a co-regulatory system is to succeed the funding and resource problems at the state level must be addressed.

The Sports Supplement Industry Development Group (SSIDG) strongly advocates the development of a specific industry "Code of Practice" and that a code of practice management committee comprising of industry leaders oversee the application and compliance to the code.

It is proposed that the code of practice committee has representation from:

Australian and New Zealand Food Authority (ANZFA)
Therapeutic Goods Administration (TGA)
State Health Departments
Australian Consumer Association (ACA)
Sports Supplement Industry Development Group (SSIDG) -
Secretariat & Chair
Australian Quarantine and Inspection Service (AQIS)
Complementary Healthcare Council (CHC)

Option 3 would be the most cost-effective option for the Government. The cost of servicing and maintaining the code of practice committee would need to be funded by the Government, with the management contribution from industry being in kind. The cost of maintaining the proposed code of practice committee would be extremely small compared to the cost of enforcing standard compliance through the States via the legal system.

Option 2

If it were not possible to operate a co-regulatory industry driven system, then SSIDG second choice would be Option 2. This option would help to remove some of the current restrictions of Standard R10 and assist in the development of a level playing field for Australian and New Zealand manufacturers and importers of sport supplements. This option would be the least flexible option for industry and the most costly for the Government.

Any new standard prepared under Option 2 would need to pay special attention to allowing a high level of flexibility in respect to composition and advances in research and technology. A timely and efficient mechanism for making changes to the Food Standard would need to be developed, past history has exposed the time consuming difficulties industry has faced in changing current standards.

Option 1 & 4

SSIDG would not support either of these options. They do not provide any additional advantage to the current system and would have the affect of severely disadvantaging the Australian and New Zealand Sports Supplement industries. Both these options do not meet with the principles and objectives of the proposal.

ISSUES AND QUESTIONS RELATED TO THE DEVELOPMENT OF A JOINT APPROACH TO REGULATION OF SPORTS FOODS.

Is the purpose of a Sports Food Standard appropriately encompassed by the opening paragraphs in Standard 2.9.4?

The purpose of a sports food specified in Standard 2.9.4 is appropriately encompassed by the opening paragraphs in Standard 2.9.4. The purpose specified in 2.9.4 accurately states the nature of a sports food and its intended use.

Should sports foods be formulated for reasons beyond physiological demands?

Sports foods should be specifically designed for sports/active people and specifically for physiological reasons associated with exercise. However, this should not be limited to the needs of the elite sports person, but rather should be diverse enough to also encompass all active lifestyles.

Should a sports food standard focus solely on the needs of sports people, or consider possible consumption by other groups?

Sports foods are designed for assisting the nutritional demands of all sports/active people. This should be reflected in the standard. A wide range

of consumers is already consuming many of the sports supplements products currently in the market. Products are currently being presented to the consumer within the mainstream retail environment and are being consumed by extremely diverse groups. The principle driving force behind consumers purchasing a sports supplement is the desire to enhance physical performance of the body and to improve health and well being.

Sports foods should not be sold to consumers for the sake of convenience. Consumers should be directed to the products that best suit their needs by labels that clearly state the purpose and provide the consumer with the means to make a decision as to whether the product is suitable for them.

Sports persons should not be disadvantaged by a restrictive over protective code, with respect to composition and warning statements. If a person outside of the target audience purchases a sports supplement then the labeling should be clear to the consumer as to the nature of the food.

It is not appropriate to sell sports foods to children, under the age of 15 years and this should be stated on the label.

Other key features that need to be addressed

The Sports Supplement Industry Development Group (SSIDG) strongly advocates that any new sports supplement standard does not include the categories that currently exist within the standard. The current categories are restrictive and counter productive in allowing new substances and innovative product development within the industry.

There must be a completed review of the current categories, in consultation with industry, with the review objective being to either remove or broaden the current categories. Manufacturers must be able to label their products for a specific target group with no restrictions on the product composition. The current categories as required by the standard are not within the stated ANZFA international harmonisation policy, as these categories do not exist within International markets.

Should a sports food standard control the representation of sports foods that might inappropriately make them appeal to children? How might this be achieved?

A sports food standard should control the presentation of the product so that they do not inappropriately appeal to children. The definition of inappropriate presentation regarding minors needs to be clearly defined within the proposed industry code of practice. Appropriate label warnings and education programs for retailers, parents and coaches need to be developed in consultation with the industry members.

Strict controls and harsh legislative penalties for marketing to children would also need to be written into the Code of Practice” if option 3 were to be adopted.

What is the most appropriate definition of a sports food?

The current definition is broad enough to cover a variety of sports foods and therefore, is appropriate for the new standard. Single ingredient foods should be included in the sports food standard. The term “food” is inappropriate and should be replaced with “Nutritional product”.

If the definition of “nutritive substance” is applied to this standard, is it necessary for a definition of sports foods to exclude single ingredient foods? If so, why?

Single ingredient foods must not be excluded from use as a sport food. The definition needs to be changed to read “Sports Nutritional Products” to encompass single ingredient foods such as creatine.

The standard for composition of sports foods must be sufficiently broad enough to cover consumer needs, current product sales, the global market and the current NZDSR. If these factors are ignored the new standard will not be effective. If manufacturers are inhibited in their capacity and retailers cannot sell the types of products demanded by the consumer, customers will look to overseas markets where they can freely purchase the desired goods and import them for personal use.

ANZFA objective (2)(c) refers to the desirability of an efficient and internationally competitive food industry. In order to obtain this goal it is necessary to look to international markets and the sports foods currently sold abroad and the current consumer demands.

The sports foods code that is prepared for Volume 2 should recognise the many different types of ingredients that are currently permitted under the NZDSR and as such are available to consumers in both Australia and New Zealand. Restricting the code so as to disallow these ingredients/foods would cause great upheaval in the industry for manufacturers, retailers and consumers.

If single ingredient foods are to be excluded it may force the addition of other ingredients which are not essential to the product.

Should the definition of nutritive substances be clarified to extend beyond a potentially narrow definition of nutritional purpose for the purposes of permitting added substances to sports foods? If so, how should that purpose be described?

Substances permitted as ingredients in sports should include those for the purpose of physiological as well as nutritional intentions. The definition of nutritive substances should be sufficiently flexible to potentially allow a wide range of compounds to be used in sports foods, provided that they can satisfy defined safety criteria.

In addition to this the definition of a nutritive substance is vague in meaning by use of the word "normal". The definition states that a nutritive substance is "a substance not normally consumed as a food and not normally used as an ingredient of a food..." However, the policy principles for a sports food states that "[sports foods] may be permitted to contain substances not permitted in general purpose foods". This could be interpreted in such a way that it is normal for sports foods to contain abnormal ingredients and therefore, permitted to have a very wide compositional allowance.

Should more nutritive (and other) substances be permitted additions to sports foods? If so, what criteria should be considered?

More substances should be permitted than is currently available in standard 2.9.4 and the amounts currently permitted should also be re-evaluated. A mechanism is needed to update permitted ingredients allowed in sports supplements in a timely and efficient manner. Serious evaluation and consideration must be given to the current market demands and the speed in which these demands can vary.

Any new standard must not be more restrictive with respect to composition than the NZDSR, consumers must be able to obtain the proven safe products that they have been able to buy for years.

In addition to the above, ANZFA objective (2)(b) "the promotion of consistency between domestic and international food standards" should be considered. The sports foods that are allowed internationally should be reviewed for composition and considered when determining compositional allowance in Volume 2.

The safety of ingredients should be assessed, however efficacy of ingredients should not be reviewed by ANZFA. Listed Therapeutic Goods are only assessed for quality and safety, not efficacy. Efficacy should not be a consideration with regards to foods. Provided ingredients are of a food grade quality and are not toxic or in any way harmful to the consumer, they should be acceptable for inclusion in a sports food.

Is there a need to reappraise ANZFA's previous approach to risk assessment, particularly in the absence of evidence?

The sports supplement industry strongly advocates a reappraisal of the ANZFA risk assessment model and that the process be carried out in consultation with industry.

Are there particular botanicals used in sports foods which are not prohibited or restricted under 1.4.4, but which should be specifically regulated under Standard 2.9.4?

This question requires further investigation and discussion. The SSIDG reserves the right to address this issue at a later date.

Are there particular botanicals or other ingredients, which are currently added to sports foods, but are prohibited under Volume 2 of the FSC that should be readdressed?

As above

Is caffeine an appropriate ingredient in sports foods? If so, why, from what sources?

Caffeine must be allowable for use in sports supplements.

Allowing caffeine to be added to sports foods may be desirable to the consumer and allowing it in both the chemical form and as guarana would be preferable to industry. Consumers can make the decision whether they would like to take their sports food with or without the addition of caffeine.

Is the labelling of products with general advisory statements that warn against consumption by vulnerable groups an appropriate risk management strategy for sports foods? Should other strategies also be adopted? If so, what other strategies are needed and why?

Labeling as to the product's intended consumer group and warnings against taking the product for those in vulnerable groups is sufficient advice for the consumer. Education as to the reasons why a particular food is not appropriate for a particular person may help to dissuade them from buying it, however appropriate warnings should always be present on labels.

Are the current advisory statements that warn against consumption by children less than 15 years and pregnant and lactating women, and which apply to all sports foods, appropriate in managing risk? Are there any other sub-groups of the population that should be generally warned about the consumption of sports foods?

Advisory statements should be both general and specific and appropriately based on the product composition. Some products such as a general-purpose protein or weight gain powder requires very little, if any advisory statements. Whereas other products that may contain specific combinations of botanical and nutritional substances at relatively high levels should contain much more detailed advisory statements. The management of risk reduction label

statements should be the responsibility of industry in consultation with ANZFA.

The current labelling covers all potential risk sub groups and there is no immediate need to expand the groups.

Should such statements, if continued, be more tailored to particular compositional criteria? If so, why?

The current general statements are appropriate and there is no apparent need to be more tailored to particular compositional criteria. Provided sports foods are targeted towards sports and active people there is no need for individual warnings for each ingredient.

Are there other substances specific, to sports foods, for which advisory or warning statements may be required? If so what are the substances and why are such statements necessary?

Warning statements should be carefully considered within an appropriate risk assessment model. The Australian sports supplement industry should not be burdened with unnecessary warning labels that are not also being applied in the International arena. ANZFA needs to take advice from the many International agencies addressing the issue of food safety and label statements.

The Australian sports supplement industry must compete in a level global playing field with regards to label statements, warnings and use of ingredients.

Currently the capped limit of 3.5g of creatine per day is extremely low compared to the amounts included in many sports foods sold within the International market. In order for the Australian sports supplement industry to compete with the international market ANZFA would have to either increase the allowed maximum or preferably remove the limit all together. These commercially restrictive incidents need to be avoided at all costs. Extreme care needs to be taken when considering any label warnings that may be Australian specific, and therefore restrict international trade opportunities.

What labelling statements are considered important for consumers to enable informed choice?

Truth in labeling is the most important labeling factor. Consumers must be comfortable that they are not being deceived by the packaging claims or presentation.

Any labeling for a specific intended target groups must be optional, for example, weight lifters, endurance sports, casual exercise, high intensity etc etc. Mandatory labeling should only include specific safety issue warnings, e.g warnings against the use of sports foods by pregnant women and children

and to indicate to dieters that it is not a meal replacement or a sole source of food.

Should sports foods be exempt from standard 1.2.7 (if adopted) that proposes to regulate performance-enhancing claims, and therefore require proper submission of scientific substantiation before being used? If so, why?

Most ingredients that are used in sports foods are well established in the market and the industry and consumers alike know the effects. It should not be required to submit scientific substantiation before ingredients can be used as this process seems to imply that the product has an action over and above its intention as a food. Sports supplement products are not therapeutic and are intended for use as foods, therefore it is not necessary to make the sorts of claims that would require substantiation by ANZFA.

Should sports foods be exempt from the nutrition panel requirements of standard 1.2.8? If so, why?

Nutrition information should be present on all foods without exemption. The consumers of sports foods may be particularly interested in the nutritional information and should be given every opportunity to make an informed decision as to the sports foods that they choose to purchase.

Is there a need for permitted labelling statements to be underpinned by compositional criteria for particular types of sports foods such as high protein, high carbohydrate, and energy supplements? Can these products be encompassed by general permissions within the standard or more broadly in Volume 2 FSC?

It should be evident as to the type of sport food a particular product is by the information present in the nutrition panel. The problem with this type of classification is that a sports food may fall just outside of the criterion for a particular category. It would be of more value to the consumer for the products to be categorised as to their purpose, for example, for weight lifters, endurance sports, casual exercise, high intensity etc etc.

Summary

The SSIDG welcomes the opportunity to participate in the review of the current sports supplement standard.

The adoption of Option 3 is preferred by the sports supplement industry. The SSIDG acknowledges the need for an industry "Code of Practice" and a Code of Practice Management Committee to oversee compliance with the code. SSIDG also strongly advocates that the proposed code of practice has strong regulatory underpinning and that the State Health Units are given adequate resources to support the enforcement of industry driven sanctions.

A unique category must be maintained for sports supplements, and within the category standards need to be developed that refer specifically to the unique purpose of sports supplements. These standards must take into account International market conditions and must not be a barrier to trade for Australian producers of sports supplements. Within the development process of a new standard, careful consideration must be given to making the standard flexible, broad and capable of reacting to industry innovation changes in a timely and efficient manner.

A labelling policy of minimal effective consumer safety information requirements must be adopted, the Australian sports supplement industry must not be burdened with unnecessary Australian specific labelling requirements that make our compliance conditions unique within the global market.

