

**Complementary  
Healthcare  
Council  
of  
Australia**



17 October, 2001

The Project Manager  
Australia New Zealand Food Authority  
PO Box 10599  
The Terrace  
Wellington 6036  
[REDACTED]

[REDACTED]

Please accept our apologies for the late application of our response to the P236 proposal. One of our members had tried to contact you to request an extension of time, unfortunately they were not successful.

I trust that our comments will be included in the review process.

Please do not hesitate to contact me if you require any further information.

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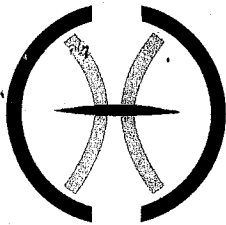
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Yours faithfully

[REDACTED]  
Technical Director



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PO Box 10599  
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Wellington 6036  
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ACKNOWLEDGED

ENTERED IN  
DATABASE

Dear Madam,

**Re: Proposal P236- Development of Joint Food Regulation For  
Sports Foods  
Initial Assessment Report.**

The Complementary Health Care Council (CHC) thanks the Australian New Zealand Food Authority for the opportunity to comment on the proposal to develop a joint food regulation for sports foods.

The Complementary Healthcare Council of Australia (CHC) is the industry peak body representing the suppliers, manufactures and retailers of complementary healthcare products within the Australian market. Many of our members market sports foods and supplements within the Australian market and therefore are key stakeholders in the proposed development of a sports food standard.

The CHC supports the development of responsible standards within the Australian market and after considering the proposal we offer the following comments to assist in the development process:

Interest in the use of sports supplements (specialised nutritional substances) has increased in recent years. Products that were once only used by serious athletes are now being accepted and used by a much wider cross section of the community. People engaged in a wide range of physical activities are looking to supplement their diet are also purchasing the products. Although non-sport people are not the target group it would be wise to also consider these users when setting standards.

The CHC supports a regulatory framework that encompasses sports foods. Such a standard should be written in a manner that the ever-increasing technological advances in substances for the sports person do not result in a framework which is unable to accommodate changes without the time consuming process of varying the standard. The framework should take into account the existing variety of sports foods, many of which do not comply to any of the current food standards, but

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have been used by Australian and New Zealand sports people without deleterious effects for a long period of time.

A new standard must also be able to meet the demands of the market place. A major group of consumers of these products are driven by the desire to improve their performance and increasing research into this area shows that special sports supplements can materially affect sporting performance whilst posing no health risk when used as instructed.

Sports foods are consumed for their perceived benefit to sports performance and nutritional goals, as well as for their convenient presentations and any standard needs to recognise this aspect. The current standard does not accommodate newer presentations such as bars. A variety of representations need to be catered for in any new standard.

Although Electrolyte Drinks remain outside the review it is the view of the CHC that they should be included in the new standard for Sports Foods. This would more closely align with the European Commission Directive.

### **Objectives and Policy**

The CHC supports the objectives and the policy, but do urge that in addition to the listed policy principles under 3.2 a further principle be included:

- The standard be sufficiently broad to accommodate rapidly changing knowledge

### **Policy Framework Specific to Sports Foods**

The principles identified in 1995 are still relevant. These product are formulated to be in addition to the normal diet, ie supplemented nutritional foods and attempts to develop specific standards are likely to place limitations on their usefulness to the target group.

The document refers to concerns about health and safety issues related to the composition of some sports foods. This issue is one for manufacturers as well as government. In the many years the products have been available we have not received information that users have been placed at risk or suffered ill effects. It is not in the best interest of industry members to support unsafe products in the market place. Unsafe products are currently referred to the industry self regulatory committees for consideration and if deemed necessary, action is taken to have them removed from the market.

Products are currently labelled as to their purpose of use and it is clearly indicated that they are not intended as the sole source of nutrition. The

label also indicates that the product is not suitable for non-target at risk groups.

## **Options for Regulation**

### **Recommendation:**

Presently, in terms of the impact analysis the CHC supports - **Option 2.**

This option appears to be a reasonable way forward, offering the opportunity to revise the current standard. The scope of the regulation should encompass both current and future technologies. This should result in a less prescriptive standard and narrow the current differences between the NZ and Aust. Standards and perhaps the US . It will also result in levelling the playing field between Australia and New Zealand and provide consistency between the two countries and its consumers.

Whilst developing the standard, the global regulations should be considered so as not to disadvantage Aust/NZ industries in the global market, either through Internet purchases of apparently more effective sports supplements available overseas, or through loss of export due to too restrictive local standards or standards that are costly and time consuming to change.

Currently local sales are lost, as the Australian standard is too prescriptive versus the NZ standards. The NZ regulatory options provide for products with many more ingredients. Another factor is the unwillingness, or inability by State Health Officials to enforce compliance of non-compliant products in the market place. Because of the number of standards that these products can be manufactured to and imported into Australia legally, checking for compliance is challenging.

A uniform standard will benefit the public by offering products that are consistent in the labelling and information supplied.

Option 3 is less attractive as compliance would require the development of code of practice and complaints resolution committee's comprising of representation from all industry, regulatory and consumer stakeholders. Enforcement responsibilities would be shared between government and industry stakeholders and would require regulatory underpinning to ensure compliance with meaningful sanctions. A commitment from all stakeholders to eliminate unscrupulous marketeers would be required under this model. Unless there is a total commitment from all stakeholders to the success and integrity of a co-regulatory model the CHC can only support Option 2.

The control of representation of sports food that may appeal to children, through the food standard is contrary to current emphasis on co-regulation and could become too restrictive as technology changes.

If it can be established that there is a real safety issue with children consuming sports foods because of representation and marketing campaigns then this issue may be able to be addressed through other means. One of those means may be a voluntary code of marketing conduct, as is the case with the promotion of Infant Formula foods.

When establishing a definition of children it is important to be consistent with definitions in other acts/regulations. The reason for choosing 15 years has not been clarified. If there is concern because of the physical development, physiological development or metabolic development then a chronological age may be meaningless.

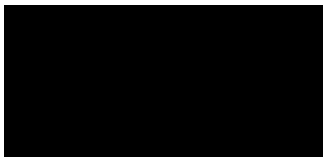
#### Option 4

There is little support for this option as it would result in some illegal foods being declared as therapeutic goods under section 7. These products would be regulated whilst the illegal foods would continue to remain in the market place unless each of the states had the manpower and financial backing to achieve uniform action.

Also NZDSR would need to be repealed, otherwise products from NZ could still be legally supplied.

I trust that the above comments will assist you in your consideration of the proposal and the CHC looks forward to assisting with future development of this proposal.

Yours faithfully,

A large black rectangular box used to redact the signature of the Technical Director.

Technical Director