



**SUBMISSION TO FSANZ  
IN RESPONSE TO  
PROPOSAL P293  
NUTRITION, HEALTH AND RELATED CLAIMS**

**30 MARCH 2012**

**MARS AUSTRALIA & MARS NEW ZEALAND**

**Including: Mars Chocolate, Mars Food, The Wrigley Company, Mars NZ**

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Mars Australia & New Zealand welcomes the opportunity to make the following submission to FSANZ regarding proposal P293 Nutrition, Health and Related Claims.

### **Mars in Australia & New Zealand**

Mars, Incorporated is one of Australia and New Zealand's leading consumer brands companies, supplying local and export customers with high quality Food, Petcare, Chocolate and confectionery products. While the largest portion of our sales are in the Pacific region, we also export to more than 30 countries worldwide.

Mars arrived in Australia in 1954, with the launch of the now iconic MARS® bar, with PAL® and WHISKAS® following the very next year. The overwhelming success of these brands enabled Mars to commission the company's first factory in Australia – a Petfood manufacturing facility in Wodonga, Victoria – in 1966.

Mars' commitment to Australia and New Zealand continued to grow, acquiring MASTERFOODS® of Australia in 1967, a company that produced herbs and spices. In the same year, the Petfood business launched the CHUM® and KIT-E-KAT® brands: 'quality products at a reasonable price'.

The success of Mars' local Petfood business was mirrored at MASTERFOODS® and in confectionery. By 1976, MASTERFOODS® had registered the KAN TONG® brand while the Petcare business launched DINE® and moved dry pet food production to a new facility in Bathurst the following year. In 1979 our first Australian confectionery factory was commissioned in Ballarat, Victoria; this site is still home to Mars® Chocolate to this day.

1985 saw MASTERFOODS® launch into the pasta sauce market with the now-iconic DOLMIO® brand, and the production of the first M&M's® at our Ballarat factory – TWIX® and MALTESERS® swiftly followed in 1989.

MASTERFOODS® continued to flourish, and in 1992 moved into a new state-of-the-art facility in Wyong in New South Wales. The Petfood business also continued its growth trajectory, launching multiple new products and brands, including PEDIGREE®, WHISKAS®, MY DOG® and DINE®. In 1997, the confectionery business was further expanded with the acquisition of KENMAN KANDY® in Scoresby, Victoria, and the completion of additional production capacity to the Ballarat factory. The global acquisition in 2002 of specialised French pet food company, ROYAL CANIN®, added this influential brand to the Australian Petfood business.

The 2008 acquisition of Wrigley saw the addition of another Australian manufacturing site to the family, as well as iconic Australian brands including EXTRA®, JUICY FRUIT®, PK®, and ECLIPSE® to an already impressive and diverse portfolio. Today Australia is one of the company's top 10 markets based on net sales.

With more than 2200 associates, 12 sites and more than 35 well-loved brands, Mars has been a part of everyday life in Australia for more than 50 years. Mars continues to invest in the region, with a \$100 million investment in our Bathurst Petcare facility, scheduled for completion in 2014, and a \$30 million investment in our Wanganui, NZ, facility, where phase one is already completed.

### **Mars brands in Australia & New Zealand**

**Petcare:** ADVANCE®, CATSAN®, CHUM®, DINE®, EXELPET®, GOLDEN COB®, GOLDEN GRAIN®, GOOD-O®, GREENIES®, HARMONY®, KIT-E-KAT®, MY DOG®, OPTIMUM®, NUTRO®, PEDIGREE®, ROYAL CANIN®, SCHMACKOS®, TRILL®, WHISKAS®

**Chocolate:** BOUNTY®, DOVE®, MALTESERS®, M&M's®, MARS®, PODS®, MILKY WAY®, SNICKERS®, TWIX®

**Wrigley:** AIRWAVES®, ECLIPSE®, ECLIPSE ICE®, EXTRA®, EXTRA PROFESSIONAL®, 5®, HUBBA BUBBA®, JUICY FRUIT®, PK®, KENMAN®, STARBURST®, SKITTLES®

**Food:** DOLMIO®, KAN TONG®, MASTERFOODS®, UNCLE BEN'S®

### **Submission comments:**

Mars Australia endorses the submissions made by the AFGC and AiGroup and considers that the proposal in its current form is fundamentally flawed and should not be accepted.

Mars is most concerned that FSANZ has indicated that it intends to limit consultation to the specific changes made since the last partial consultation in 2009. There have been many developments since the last full consultation (2006-7), both globally and locally that can guide the approach to nutrition, health and related claims.

We are making comments on other elements of the proposal, in particular to again express our rejection of the application of nutrient profiling and the use of a per 100g basis for comparison. Many of the valid concerns raised previously by Mars, many other companies, and our industry associations AFGC and AiGroup (confectionery segment) have not been addressed and we firmly believe that much further consideration is justified.

We are also most concerned that due process for consultation has not been followed in development of this latest proposal, particularly with the “tacking on” of the %Fat Free provisions. If action on these %Fat Free forms of claims is considered warranted, then they should be subjected to the appropriate justification (Regulatory Impact Statement), and follow the established and agreed review process in the development of a separate proposal.

In both the Nutrition and Health claims area and for the %Fat Free claims proposal, there appears to be little recognition of the value of industry self-regulation or co-regulation to achieve appropriate use and management.

Whilst Mars Australia uses only a limited number of claims on products, we see this proposal significantly limiting opportunities for valid claims to be made, and we understand it would result in the removal of many claims that are currently in use and providing valuable information to consumers.

In supporting the comprehensive comments of AFGC and AiGroup, Mars reiterates the following points that we consider seriously limit the value of Proposal P293 to consumers and to manufacturers:

- Whilst supporting in principle the development of a standard to provide greater confidence and certainty for nutrition, health and related claims for both consumers and food industry, we consider that the current proposal P293 fails to deliver this.
- The flawed Nutrient Profiling Scoring Criteria proposed would clumsily restrict the making of many soundly based, helpful nutrient claims that are currently informing consumers;
- Mars considers that the current Industry Code of Practice on Nutrient Claims (CoPoNC) provides a better and preferred model for nutrient content claims; and ;
- That if following appropriate review a case is established, then %Fat Free claims for products be managed through a code of Practice (ie similar to Option 2) in conjunction with the relevant industry segment.

We consider the following principles to be critical to the provision of improved information via Nutrition, Health and Related Claims for consumers to make better informed choices:

- Products should be able to truthfully and clearly state their content, attributes and potential benefits to consumers and consumer health, subject only to appropriate substantiation (ie contain what is claimed, deliver the benefit claimed).
- That the content of a product includes ingredients, nutrients and “non-nutrients” of potential nutrition or health interest, and the appropriate descriptors.
- That the substantiation of “health claims” be based solely on the demonstration of the benefit being claimed when the product is consumed as intended.
- That as advised by Health Authorities, a healthy balanced diet is made up of a wide variety of different foods, recognising that few individual foods are complete and balanced alone. Indeed many foods are well understood by the public to be “good sources” of certain essential nutrients, whilst being low or deficient in other (equally) important nutrients.
- That encouraging the consumption of smaller serving sizes of more nutrient dense products, would be beneficial for much of the population given the evidence for increasing population body weight and generally lower energy requirements of modern lifestyles. Nutrient content criteria should be based on “per serve” as consumed, rather than per 100g/100ml.
- High level claims should be evaluated rigorously and because of this, disqualifying criteria are not required, as such products should be able to support any claims that they make.

Mars Australia endorses the AFGC recommendations made previously that are summarised as follows:

1. Claims should be permitted, provided they can be justified.
2. Nutrition content claims should be permitted.
3. Health claims should be permitted, if sufficient scientific evidence is held to support the claim.
4. %DI should continue to be allowed if there is space because claims relate to the serve size.
5. %DI energy is a convenient reference point for the relative amounts of the nutrients.
6. Content Claims should be based on serve size, as this is the amount that contributes to the diet.
- For products where the serve size is above 100g, the claims should relate to 100g or mL in the case of liquids. Quantities above 100g are more likely to be major contributors to the diet and serving size/amount consumed is often more readily decided by the consumer.
7. Relative Claims should be permitted:

- Reduced - 25% less than nominated reference material
  - Increased - 25% more than nominated reference material
  - Source - 10% reference value (per serve)
  - Good Source - 25% reference value (per serve)
8. Absolute Claims should be permitted
- Low - Less than 5% of reference
9. Other claims
- Light (and variants) - As for Reduced
  - Diet - 25% further reduction in energy than Reduced (~40% overall) or meets “Low”
10. Disqualifying Criteria are not required.

There are many reasons for not having disqualifying criteria and these are expanded in the AFGC’s previous submission. The principle reason being the lack of science in developing product based criteria. Any scheme creates artificial boundaries that then need adjusting for “special cases”.

Industry must be able to support any claims that they make, and it is appropriate that high level claims should be evaluated rigorously and because of this, disqualifying criteria are not required.

We make following conclusions:

Whilst supporting in principle the development of a standard to provide greater confidence and certainty for nutrition, health and related claims for both consumers and food industry, and so deliver healthier foods for consumers in line with government and community expectations, we consider that the current proposal P293 fails to deliver this, and therefore should be rejected.

Mars supports the arguments raised in the AFGC’s submission and the suggestion that the future of health claims be considered as part of a comprehensive review of the current food regulatory policy settings and Food Standards Code and in particular the extent to which food regulation should be used to pursue preventive health priorities in the areas of non-communicable diseases.