

## **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:**

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Kraft Foods is generally opposed to the Health Claims standard and fully supports the submission from the Australian Food & Grocery Council and the Australian Industry Group

**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’.**

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
8	<p>Permission for vitamin and mineral comparative claims will encourage product innovation in improving the nutrient density of a product.</p> <p>As comparative claim is allowed in the other nutrients, the restriction in vitamins and minerals is unjustified.</p>
16 (1), 16 (2)	<p>As all health claims are considered under a single class (rather than general level vs. high level) under Schedule 2, this clause adds to confusion and could imply that the existing claims under Schedule 2 are 'general level' health claims.</p> <p>In addition, as the science of human nutrition is an evolving field, one cannot rule out scientists have already discovered <u>all</u> basic functions of nutrients in the human physiology. It is unjustified to assume all future health claims can only be high level health claims.</p>
17 (1)(a)	<p>Kraft Foods maintains its opposition to the Nutrient Profiling Scoring Criteria (NPSC) as it categorises foods as either Good or Bad foods whereas the emphasis should be in Good or Bad Diets.</p> <p>The methodology behind the NPSC is also flawed in that it unfairly benchmarks all foods on a 100g basis, assuming the same quantity is consumed for any food at any one time. This is not the case with many foods eaten individually or in combination with other foods.</p> <p>A FSANZ principle is to ensure that Consumers are provided with the appropriate information upon which they can make informed choices and it is our belief that the NPSC fails to meet this basic requirement.</p> <p>Although a separate NPSC category was created with a different score criteria for energy dense foods specifically cheese, edible oil, edible oil spreads, margarine and butter, it has not addressed a few other foods which are commonly eaten in a small quantity and have similar nutrition profile (if not better) than existing foods qualified under NPFC category 3 foods. These include peanut butter (20g), yeast spreads (5g) and cereals-based biscuits (15-30g).</p>

Nutritional values of these foods (Per 100g):

	Margarine poly-unsaturated	Fat-reduced Cheddar Cheese*	Peanut Butter	Yeast Spread	Whole-meal Biscuits
Serving size	10g	25g	20g	5g	25g
Energy (kJ)	2552	1402	2470	517	1748
Protein (g)	0	28.9	22.2	23.9	11.1
Fat (g)	69	24.2	50	0.9	12.6
-Saturated (g)	14.8	16.5	8.7	<1	6
Carbohydrate (g)	0	0	12	1.6	60.6
- Sugars (g)	0	0	8.6	1.6	0.5
Sodium (mg)	562	550	471	2962	1021
Source of	Vitamin E Vitamin A	Calcium	Dietary Fibre Magnesium Vitamin E	Folate Thiamine Riboflavin Niacin	Dietary fibre Whole-grain
<b>NPSC Score</b>	<b>18</b>	<b>27</b>	<b>16</b>	<b>11</b>	<b>15</b>
NPSC Criteria	<28	<28	<4	<4	<4

Our preference has always been that we would not support any NPSC system that is not, as a minimum, based on the serving size of the food.

We also note that there are many foods that have traditionally been able to make claims which will now be prohibited from making a Health Claim (over and above a Nutrient Content Claim) and this will only lead to false assumptions that these foods are no longer “good” for you. Examples of this include:

- Vegemite; a product which has existed since 1923, has claims relating to Folate and B group Vitamins which would no longer be permitted as Vegemite fails the NPSC. Standard 1.3.2 (table to Clause 3) would still permit the addition of Folate and B group vitamins but we would not be able to make any claims, including the provision of information in the Nutrition Information Panel.
- Natural Cheddar Cheese; a product which has existed for many decades, makes a nutrient content claim relating to Calcium. This will still be permitted but as Natural Cheddar Cheese fails the NPSC the additional claim relating to Calcium being “good for bones and teeth” would not be permitted.
- A reduced Fat Cheddar Cheese does meet the NPSC so not only can a Nutrient Content claim be made but a Health Claim such as “Calcium is good for bones and teeth” can also be made. A Consumer may well be very confused to identify that a standard Cheddar Cheese and a Reduced Fat Cheddar Cheese contains the same level of Calcium but only the Reduced Fat variant has Calcium that is “good for bones and teeth”.

**Schedule**

3 and 4

**Comments**

See above

Consequential variations	Comments

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

<b>Submitter name:</b>	
<b>Question</b>	<b>Comment</b>
<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>We are not aware of Consumers being misled by claims of Fat Free or % Fat Free, specifically relating to claims made on our range of Sugar Confectionery.</p> <p>Our Consumer Services group have had no complaints or inquiries relating to this issue in the past 5 years</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>In general we would support a variation of Option 3 where those definitions for Fat Free and % Fat Free, currently listed in the Code of Practice on Nutrient Claims (CoPoNC), were included into Standard 1.2.7., i.e;</p> <ol style="list-style-type: none"> <li>1. "Fat Free" means less than 0.12% fat</li> <li>2. "% Fat Free" to only be permitted where the food meets the requirements of "Low Fat" (ie: &lt;3.0% Fat)</li> </ol> <p>The term "Fat Free" is also encompassed in international regulations:</p> <ul style="list-style-type: none"> <li>• Codex "Guidelines for use of Nutrition and Health Claims" CAC/GL 23-1997 defines "Fat Free" as &lt;0.5g fat per 100g solids food (100 ml Liquid)</li> <li>• EC Regulation No. 1924/2006 states "A claim that a food is fat-free, and any claim likely to have the same meaning for the consumer, may only be made where the product contains no more than 0,5 g of fat per 100 g or 100 ml.</li> <li>• US FDA defines "Fat Free" as "less than 0.5 g per RACC (Reference Amount Customarily Consumed) and per labelled serving (or for meals and main dishes, less than 0.5 g per labelled serving) <i>and</i> contains no ingredient that is fat or understood to contain fat"</li> </ul> <p>While we would support an Industry CoP this does not guarantee protection from the ACCC. If the ACCC maintains its position where "free" is a definitive term then inclusion into the Standard is the only way that protection from ACCC action would be guaranteed.</p> <p>Kraft Foods would also support permissions for a</p>

	<p>“Sugar Free” claim on the same basis that a claim would provide additional information to Consumers.</p> <p>In CoPoNC “Sugar Free” was defined as less than 0.2g of sugars per 100g (or 100 ml) of the food.</p> <p>Similarly “Sugar Free” is encompassed in international regulations:</p> <ul style="list-style-type: none"> <li>• Codex “Guidelines for use of Nutrition and Health Claims” CAC/GL 23-1997 defines “Sugar Free” as &lt;0.5g sugar per 100g solids food (100 ml Liquid)</li> <li>• EC Regulation No. 1924/2006 states “A claim that a food is sugar free, and any claim likely to have the same meaning for the consumer, may only be made where the product contains no more than 0,5 g of sugar per 100 g or 100 ml.</li> <li>• US FDA defines “Sugar Free” as “less than 0.5 g per RACC (Reference Amount Customarily Consumed) and per labelled serving (or for meals and main dishes, less than 0.5 g per labelled serving) <i>and</i> contains no ingredient that is sugar or understood to contain sugars”</li> </ul>
<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>As we do not support the NPSC principle Option 3(a) is not supported.</p> <p>Whether or not a food contains any fat is immaterial. If the claim is factual then manufacturers should be able to make the claim. A claim of “Fat Free” on a food that traditionally does not contain any fat is only providing additional information to consumers about the nature of that food. Based on this we do not support Options 3(b), 3 (c), or 3 (d).</p> <p>In saying this we are also supportive of the Confectionery Industry initiative (through the Ai Group) to remove the reference to “Fat Free”, and similar terms, from all sugar based Confectionery where Fat is not expected to be a component of the food.</p>