

**Proposal P293 – Nutrition, Health & Related Claims
Summary of submissions received in response to the
Preliminary Final Assessment Report**

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SUMMARY OF ISSUES THAT WERE CONSIDERED IN THE PRELIMINARY FINAL ASSESSMENT REPORT

1. APPLICATION OF STANDARD 1.2.7

Submitter	Group	Comments
Australian Egg Corporation Limited	Industry - Australia	<ul style="list-style-type: none"> • Proposes that nutrition communications activities carried out by research and development/generic marketing organisations such as the Australian Egg Corporation Limited (not for profit) is classified as ‘public health materials published by community based organisations’. • This would provide significant benefits and cost-savings to the Federal Government as the information produced by AECL directly promotes public health by reinforcing the messages in the Australian Dietary Guidelines.
Australian Food and Grocery Council (AFGC) Supported by Simplot	Industry - Australia	<ul style="list-style-type: none"> • Recommends that FSANZ consider redrafting foods for catering purposes definition as follows: ‘<i>Standard 1.2.7 will not apply to foods for catering purposes except in instances where nutrient or health claims are made on pre-packaged foods.</i>’ • Agrees with the rational and concern that the standard does not apply to packaged meals delivered to clients. • Manufacturers may wish to include claims on their packaging, and under this proposal their obligations are silent, and in practice they could make claims using their own criteria provided they can substantiate the claim. • FSANZ may not have considered that a large number of items are sold pre-packed as food for catering purposes. The current wording may create anomalies and therefore ultimately confusion for the manufacturer, consumer and end user.
Australian Nut Industry Council	Industry - Australia	<ul style="list-style-type: none"> • Seek clarification on whether whole food promotion programs such as Nuts for Life, Go Grains and Dairy Australia that receive both industry and government funding are exempt from Standard 1.2.7 given that they are not food businesses as defined in the Food Act 2003 (NSW). • Submission provides detail on the background to Horticulture Australia, the Australian Nut Industry Council and the Nuts for Life Program, which is a generic nutrition communications/education initiative by the Australian nut industry to provide information about the nutrition and health benefits of eating nuts.
Confectionery Manufacturers of Australasia (CMA) New South Wales Branch. Victorian Branch, South Australian Branch, Queensland Branch, New Zealand Branch International Confectionery Association	Industry – Australia	<ul style="list-style-type: none"> • The standard should apply to all foods, not just those for retail sale. • Do not support the hospitality trade being allowed to make claims without abiding with criteria.

Submitter	Group	Comments
Cadbury Schweppes Pty Ltd	Industry - Australia	<ul style="list-style-type: none"> The standard should apply to all packaged foods, not just those for retail sale, regardless of how they are intended to be distributed. Does not support the hospitality trade being allowed to make claims without abiding with criteria whereas the manufacturing industry cannot. This would provide consumers with consistent and accurate messages.
Community and Public Health, Canterbury District Health Board	Public Health – New Zealand	<ul style="list-style-type: none"> If meals on wheels providers are not under contract to a hospital, what standards guide ‘low fat’ and ‘diabetic’ meals? Recommend a definition be developed for ‘delivered meal organisations’ to reflect the intent for hospital based services to be excluded from the standard.
Horticulture Australia Limited (HAL)	Industry - Australia	<ul style="list-style-type: none"> Are pleased that nutrition communication activities such as those carried out by Nuts for Life, HAL, etc are exempt from the Standard given that they do not directly sell food products and hence are not defined as ‘food businesses’ under the Food Act 2003 (NSW). This will provide significant benefits to the Federal Government as the information directly promotes public health.
Kraft Foods Limited	Industry - Australia	<ul style="list-style-type: none"> Support the proposed approach.
New Zealand Food and Grocery Council (NZFGC) Supported by Unilever Australasia	Industry – New Zealand	<ul style="list-style-type: none"> Agrees with the recommendation that the Standard is to apply only to food for retail sale. Agrees that the standard will not apply to foods for catering purposes, packaged meals delivered to clients of meal organisations and food provided to patients in hospitals and similar institutions, when the meal is not in a package.
Coles Supermarkets	Industry – Australia	<ul style="list-style-type: none"> Supports that the Standard applies to foods for retail sale only and other foods are specifically exempt.
General Mills Australia Pty Ltd and General Mills New Zealand Ltd Cereal Partners Worldwide Nestlé	Industry – Trans Tasman	<ul style="list-style-type: none"> Supports that the standard applies to foods for retail sale only and not to foods for catering purposes etc. Foods for catering purposes will still be subject to fair trade legislation. The preferred option does not exempt foods that are packaged and served in hospitals etc. If packaged meals provided to delivered meal organisations exempt, then packaged meals provided in hospitals and other institutions should also be exempt. There are some foods prepared specifically for hospitals etc (not for retail sale) and they should be subject to the same conditions as unpackaged foods. Supports the interpretation by FSANZ that education material and information provided to health professionals is not captured by the Standard.
Department of Health and Human Services - Tasmania	Government - Australia	<ul style="list-style-type: none"> Supports Option 2 that Standard 1.2.7 applies to foods for retail sale only.

Submitter	Group	Comments
Dairy Australia	Industry - Australia	<ul style="list-style-type: none"> • Supports Option 2; for the standard to apply to food for retail sale only. • Supports the need to exchange dietary information in certain circumstances and agrees with the examples cited in the Preliminary Final Assessment Report (p.20) allowing nutrition communications in educational materials to: <ul style="list-style-type: none"> - Medical professionals - Health professionals - Manufacturers - Schools - Caterers. • Noted that listed general dietary advice mediums suggested from stakeholders and ‘recommended some of these information vehicles and/or content be exempted from the proposed Standard’ (p.18). There is a discrepancy between this list (p.18) and the above examples suggested by FSANZ (p.15). • Recommends that FSANZ clarifies circumstances where the Standard applies and where it does not. This could be covered in the User Guide or preferably be made clear in the Standard.
Department of Human Services - Victoria	Government - Australia	<ul style="list-style-type: none"> • Supports option 2 that Standard 1.2.7 applies to foods for retail sale only.
Queensland Health	Government - Australia	<ul style="list-style-type: none"> • Supports that Standard 1.2.7 apply to foods for retail sale only.
Dairy Farmers	Industry - Australia	<ul style="list-style-type: none"> • Supports Option 2 – but seeks clarification as to the definition of ‘retail sale’ and the use of dietary information and links to health information on company websites. Dairy Farmers would support the ability to provide links to mainstream health information from recognised authorities. • Seeks clarification as to whether the standard covers outlets with set menus (such as fast food chains); given that take away foods contribute substantially in today’s food supply to food and nutrient intake. • Supports the benefits of allowing nutrition communication and educational materials to Schools and school canteens, Medical and health professionals, Caterers, Manufacturers.
Sanitarium Australia/New Zealand	Industry – Australia/New Zealand	<ul style="list-style-type: none"> • Supports the proposal that organizations such as ‘meals on wheels’ should not be subject to requirements of health claims, however is concerned that commercial meal delivery organizations such as ‘lite n’ easy’, ‘weight watchers’ may use the exclusion to make claims that would not be possible for retail food supply • Commercial food delivery organizations can access general public via web pages; direct delivery ordering should not be exempt from the standard • Suggests adding ‘except commercial operations that sell to the general public’ be added after ‘organizations’.
Food Technology Association of Victoria Inc (David Gill)	Industry - Australia	<ul style="list-style-type: none"> • Prefers option 2 • Suggests the draft standard be clarified to ensure that hospitals and delivered meal organisations do not make claims other than those for medically related requirements. • Believes food for catering should be included in the standard.

Submitter	Group	Comments
New Zealand Ministry of Health (Cynthia Maling)	Government – New Zealand	<ul style="list-style-type: none"> Does not support either of the two options presented in the PFAR. Prefer Standard 1.2.7 apply to food for retail sale and food for catering purposes, with the exemption of hospitals and other institutions providing meals for health-related purposes.
Private (Jack Ward)	Consumer - Australia	<ul style="list-style-type: none"> Concerned over a blanket exemption for foods for catering purposes and believes such foods should not be exempt from the whole standard. States that exemptions for hospitals and meals on wheels organisations should apply to claims that reference a serious disease only, and not provide a blanket exemption so that, for example, a low salt meal does not have to meet the requirements.
The New Zealand Food Safety Authority (Carole Inkster)	Government - New Zealand	<ul style="list-style-type: none"> Does not support either of the two options presented. Believes Standard 1.2.7 should be applied to both food for retail sale and food for catering purposes. Supports an exemption for hospital food services and delivered meal organisations but suggests that ‘delivered meal organisations’ be defined. Suggests the definition of ‘delivered meal organisation’ in Table to clause 8 in Standard 1.2.1 as included in P272. The intention of this would be to prevent the set up of a commercial venture with no retail outlet but sole reliance on deliveries. Concerned that accepting option 2 would allow for claims to be made to help sell ingredients when those same claims would not be permitted to be made about the end product sold directly to the public.
Dietitians Association of Australia (Ms Kate Poyner)	Public Health - Australia	<ul style="list-style-type: none"> Support Option 2 as recommended by FSANZ
The National Heart Foundation of Australia (Anne-Marie Mackintosh)	Public Health - Australia	<ul style="list-style-type: none"> Supports Option 2 but is concerned this option may be misused by some suppliers, and provides no protection for vulnerable consumers
The National Heart Foundation of New Zealand (Anna Malan)	Public Health – New Zealand	<ul style="list-style-type: none"> Supports Option 2 but is concerned this option may be misused by some suppliers, and provides no protection for vulnerable consumers

Submitter	Group	Comments
Parmalat	Industry – Australia	<ul style="list-style-type: none"> • Agrees that the Standard only apply to foods offered for retail sale and allows exemption for unpackaged meals supplied in hospitals and similar institutions, and packaged meals delivered through meals organisations. • Not clear under the definitions provided to what extent this definition would affect the provision of dietary information (incorporating references to health effects) to medical professionals, health professionals, schools, canteens, etc. • In relation to the <i>'foods for retail sale and not to foods for catering purposes allows for the exchange of important dietary information relating to foods in certain circumstances. Examples include...'</i> in the discussion on Option 2, an interpretation of this statement is that foods supplied for catering purposes, whether pre packaged or unpacked, being outside the scope of the Standard, may have associated with them, health related information in the form of hardcopy (brochures) or electronic media (website). This information could be supplied to schools for educational purposes or to health/medical professionals for similar purposes. It is not clear whether provisions allowing for health related information supplied to such institutions deemed to be excluded in the application of Standard 1.2.7, could also be interpreted as product advertising if accompanied by reference to a product, brand or company name and therefore captured within the scope of Standard 1.2.7. • Another anomaly associated with the application of this standard is that community organisations, health professionals, and other professional associations are exempt from making unsubstantiated health and nutrition claims under the checks and balances imposed by Standard 1.2.7. • Recommend that FSANZ clarify in a user guide (together with practical examples) the circumstances surrounding application of Standard 1.2.7 in relation to provision of health related information pertaining to a food or food component when such information is supplied to food service establishments such as, schools, hospitals, canteens etc or to medical/health practitioners.
Fonterra Co-Operative Group Limited	Industry – Australia & New Zealand	<ul style="list-style-type: none"> • Endorses FSANZ's proposed approach.
Food and Beverage Importers Association Supported by Unilever Australasia	Industry - Australia	<ul style="list-style-type: none"> • Support the proposed approach.
Go Grains Health and Nutrition Limited	Industry - Australia	<ul style="list-style-type: none"> • Seeks clarification that since Standard 1.2.7 applies to 'dietary information provided in situations other than food labels or advertising which was not promoting the food for retail sale to the public' (PFAR p 103), information generated by Go Grains and other similar organisations will not be captured by the proposed Standard. • Notes that most primary industries (grains, dairy, eggs, nuts and meat) provide nutrition information relevant to their specific products. This information is typically high quality, scientific bases and often not available to consumers or health professionals from any other source. • Seeks clarification that statements relating a class of foods e.g. wholegrains, to a health effect such as reduced risk of heart disease, not to be captured by the proposed Standard when in printed consumer resource materials that are disseminated to audiences distinct from the marketing of branded products i.e. <i>when not on a food label or in advertising promoting the food for retail sale.</i>

Submitter	Group	Comments
Australian Food and Grocery Council (AFGC) Supported by Simplot and Unilever Australasia	Industry - Australia	<ul style="list-style-type: none"> • Recommends that FSANZ address the anomaly created by their approach to dietary information that holds industry to a higher standard of evidence than other stakeholders by amending the reference to community based organisations being exempt organisations. • The exemption for public health materials published by community based organisations will produce unintended and discriminatory consequences, e.g., A food business with a strong brand name that operates a nutrition information service that regularly takes newspaper advertorials highlighting the health benefits of a nutrient such as fibre, but without associating that nutrient with any specific product, will now be required to hold substantiation evidence for the general nutrition message about fibre. • Conversely, a community organisation decides to list on its website, foods with nutrition content claims relating to low fat (but which have higher sugar) as unsuitable for purchase. These foods for retail sale are being advertised by the community organisation as unsuitable for purchase due to the sugar levels. They would not need to have substantiated evidence of the claim (sugar harms health) to back their assertion as they would be exempt under ‘public health material published by a community based organisation’.
New Zealand Food and Grocery Council (NZFGC) Supported by Unilever Australasia	Industry – New Zealand	<ul style="list-style-type: none"> • Agree with the exemption of dietary information from the Standard but the circumstances in which this exemption will apply need to be clarified as the examples on page 20 differ from those on page 18 of the Report. • Agree that dietary information not involving direct sale to the public should be exempt from the Standard.

2. FOODS PROHIBITED FROM MAKING CLAIMS

2.1 Kava

Submitter	Group	Comments
Cadbury Schweppes Pty Ltd	Industry - Australia	<ul style="list-style-type: none"> • Supports prohibition of claims on kava as proposed.
Confectionery Manufacturers of Australasia (CMA) New South Wales Branch, Victorian Branch, South Australian Branch, Queensland Branch, NZ Branch, International Confectionery Association	Industry – Australia	<ul style="list-style-type: none"> • Supports prohibition of claims on kava as proposed.

Submitter	Group	Comments
Kraft Foods Limited	Industry - Australia	<ul style="list-style-type: none"> Support the proposed approach.
Frucor Beverages Ltd	Industry – Trans Tasman	<ul style="list-style-type: none"> Agree with the proposed approach.
Coles Supermarkets	Industry – Australia	<ul style="list-style-type: none"> Supports the proposed approach for kava.
Department of Health and Human Services - Tasmania	Government - Australia	<ul style="list-style-type: none"> Supports Option 2, to prohibit Kava from being permitted to carry health claims.
Department of Human Services - Victoria	Government - Australia	<ul style="list-style-type: none"> Supports option 2 – prohibit kava from being permitted to carry health claims.
Choice – Australia	Consumer - Australia	<ul style="list-style-type: none"> Supports proposal
Consumers’ Institute of New Zealand Incorporated (Belinda Allan)	Consumers – New Zealand	<ul style="list-style-type: none"> Supports proposal
Food Technology Association of Victoria Inc (David Gill)	Industry - Australia	<ul style="list-style-type: none"> Supports prohibiting Kava from making claims.
New Zealand Ministry of Health (Cynthia Maling)	Government – New Zealand	<ul style="list-style-type: none"> Agree with the recommendation for kava to be prohibited from making claims.
Private (Jack Ward)	Consumer - Australia	<ul style="list-style-type: none"> Supports Option 2 as recommended by FSANZ
The New Zealand Food Safety Authority (Carole Inkster)	Government - New Zealand	<ul style="list-style-type: none"> Supports Option 2 as proposed by FSANZ
Dietitians Association of Australia (Ms Kate Poyner)	Public Health - Australia	<ul style="list-style-type: none"> Support Option 2 as recommended by FSANZ
Australian Self Medication Industry	Industry - Australia	<ul style="list-style-type: none"> Supports FSANZ position prohibiting kava from making nutrition content and health claims.
Fonterra Co-Operative Group Limited	Industry – Australia & New Zealand	<ul style="list-style-type: none"> Endorses FSANZ’s proposed approach

Submitter	Group	Comments
Food and Beverage Importers Association Supported by Unilever Australasia	Industry - Australia	<ul style="list-style-type: none"> • Support the proposed approach.

2.2 Alcohol

Submitter	Group	Comments
Australian Food and Grocery Council (AFGC) Supported by Simplot	Industry - Australia	<ul style="list-style-type: none"> • Supports proposed approach.
Cadbury Schweppes Pty Ltd	Industry - Australia	<ul style="list-style-type: none"> • Supports prohibition of claims on alcohol (>1.15%) as proposed. • Support recommendation that permits nutrition content claims about alcohol, energy and carbohydrate only, on foods with >1.15% alcohol.
Confectionery Manufacturers of Australasia (CMA) New South Wales Branch. Victorian Branch, South Australian Branch, Queensland Branch, New Zealand Branch International Confectionery Association	Industry – Australia	<ul style="list-style-type: none"> • Supports prohibition of claims on alcohol (>1.15%) as proposed.
Kraft Foods Limited	Industry - Australia	<ul style="list-style-type: none"> • Support the proposed approach.
Frucor Beverages Ltd	Industry – Trans Tasman	<ul style="list-style-type: none"> • Agree with the proposed approach.
Coles Supermarkets	Industry – Australia	<ul style="list-style-type: none"> • Supports the proposed approach for claims on alcohol.

Submitter	Group	Comments
Nestlé	Industry – Trans Tasman	<ul style="list-style-type: none"> • Supports the proposed approach. • Note that the changes to Standard 1.2.8 seem to permit the declaration of vitamins and minerals in the nutrition information panel of foods that contain more than 1.15% alcohol. Question whether this should be described as ‘contains no more than 1.15% alcohol’ as foods with more than 1.15% alcohol do not appear to be able to list vitamins and minerals in the nutrition information panel because clause 4(3) appears to only permit the voluntary declaration of the standard nutrients – energy, protein, fat, saturated fat, carbohydrate, sugars and sodium. • Support the position of not prescribing criteria for carbohydrate claims.
Department of Health and Human Services - Tasmania	Government - Australia	<ul style="list-style-type: none"> • Existing low carbohydrate claims on alcoholic products such as beer do not provide clear information for consumers to enable informed choice. • There is no defined standard for reduced/low carbohydrate in the Code. Although these products are technically lower in carbohydrate than regular beer, most alcoholic products have relatively small amounts of carbohydrate anyway. They are not significantly lower in total carbohydrate, energy or alcohol. Carbohydrate claims on alcohol are disingenuous and could be considered misleading. • If the low carbohydrate claim is relative to carbonated sweetened beverages (‘high’ carbohydrate beverages), then this comparison could be considered to be promoting socially irresponsible patterns of consumption by comparing non-alcoholic beverages with alcoholic beverages. This would be inconsistent with Ministerial Policy guidelines. • Low carbohydrate beers are not a more appropriate choice for people wishing to decrease alcohol or energy intake, or for people with controlled carbohydrate intake, e.g. people with diabetes. Low alcohol beers, which contain substantially less kilojoules, would be a more appropriate choice, especially given the interaction between common medications for diabetes and alcohol, and concern relating to energy control and type 2 diabetes. • In relation to any other nutrition claims on alcoholic products: <ul style="list-style-type: none"> - Promotion of any alcohol beverage as having nutritional benefit should be viewed with caution and in particular in relation to the development of foetal alcohol syndrome in the babies of pregnant women – especially those beverages that contain folic acid and other vitamin supplements; - It is not known if there is any safe level of alcohol consumption, no matter how small. Recent research challenges previously reported protective benefits from the consumption of small amounts of alcohol due to ‘abstainer error’¹⁻³ - Health claims on substances containing alcohol would be anticipated to negatively impact on the public health message regarding responsible consumption of alcohol; - Any labelling requirements should: <ul style="list-style-type: none"> ⇒ Be consistent with a harm minimisation philosophy as a first principle, with restriction of industry innovation as a secondary concern; ⇒ Prevent a blurring of product formulation, marketing and targeting of sub population. <ol style="list-style-type: none"> 1. Apfel F, Andkjaer A (2001). Alcohol: no benefits to the heart noted at population level European comparative alcohol study (Electronic). Copenhagen and Stockholm: World Health Organisation Press backgrounder EURO 01/2001. 2. Fillmore KM, Jerr WC, Stockwell T, et al., (2006). Moderate alcohol use and reduced mortality risk: systematic error in prospective studies. Addiction Research Theory, 14 (2): 101-132.

Submitter	Group	Comments
		3. Hart CL, Smith GD, Hole DJ, et al., (1999). Alcohol consumption and mortality from all causes, coronary heart disease, and stroke: results from a prospective cohort study of Scottish men with 21 year of follow up. British Medical Journal, 318.
Department of Human Services - Victoria	Government - Australia	<ul style="list-style-type: none"> • Partly supports option 2 – permission to make energy and alcohol claims only – with the requirement to have a nutrition information panel. • Does not support low carbohydrate claims unless a ‘low carbohydrate’ definition is provided. • Reduced carbohydrate claims based on a 25% reduction in carbohydrate based on a reference food would be supported.
Queensland Health	Government - Australia	<ul style="list-style-type: none"> • Supports the permission to make alcohol and energy claims with the requirement for the nutrition information panel, but does not support low carbohydrate claims. • Notes that there are no relevant national criteria or guidelines for determining such claims. • A number of products now carry ‘low carb’ claims, however as there are no defined levels for low carbohydrate claims companies will be able to label any quantity of carbohydrate as low. This has the potential to be misleading. • FSANZ has advised that such claims should be regulated by fair trading agencies however without a definition of low carbohydrate this would be difficult. • Believes that low carbohydrate claims should be prohibited until a definition can be determined. • A ‘reduced’
Choice – Australia	Consumer - Australia	<ul style="list-style-type: none"> • Supports proposal
Alcohol Healthwatch (Christine Rogan)	Public Health – New Zealand	<ul style="list-style-type: none"> • Opposes any positive health claim relating to alcohol in any product containing a measurable amount. • Believes that only information pertaining to energy, alcohol content, carbohydrate, preservatives and additives used should be allowed to be stated in any nutrition panel on alcohol products. • Comments that known risks to health, nutrition and safety from consuming alcohol must be clearly stated on alcohol products above 0.5% alcohol content. • Comments that given the harm associated with alcohol and that it is no ordinary consumable, industry compliance cost should not be a primary consideration.
Consumers’ Institute of New Zealand Incorporated (Belinda Allan)	Consumers – New Zealand	<ul style="list-style-type: none"> • Supports
Food Technology Association of Victoria Inc (David Gill)	Industry - Australia	<ul style="list-style-type: none"> • Supports option 2 but considers that many alcoholic products are not exempt from an NIP and an NIP should always be shown on premixed ready to drink beverages.
New Zealand Ministry of Health (Cynthia Maling)	Government – New Zealand	<ul style="list-style-type: none"> • Agrees with the recommendations for foods containing alcohol >1.15% to be prohibited from making health claims, and only permitted selected nutrient content claims. • Recommends with alcohol >1.15% should not be permitted to carry a low carbohydrate nutrient content claim because there are no national guidelines recommending reduced carbohydrate intake and these products are not necessarily low in energy or alcohol.

Submitter	Group	Comments
		<ul style="list-style-type: none"> • Recommends alcohol and energy content claims in relation to alcohol to be pre-defined to avoid misleading claims, and to prohibit ‘high’ alcohol claims. • Supports NIPs being permitted on alcohol products, provided serving size is defined according to the usual conventions for a standard drink and not determined by the manufacturer.
Private (Jack Ward)	Consumer - Australia	<ul style="list-style-type: none"> • Supports Option 2 as recommended by FSANZ but states that currently mixed drinks such and gin and tonic do not require a nutrition information panel, so this Standard should not contradict this.
<p>The Cancer Council Australia (Kathy Chapman, Sarah Mackay, Terry Slevin)</p> <p>Supported by the Cancer Council Western Australia</p>	Public Health - Australia	<ul style="list-style-type: none"> • Concerned about the change to permit content claims on alcoholic beverages (more than 1.15% alcohol by volume) in relation to alcohol, energy and carbohydrate content. Acknowledge that there are benefits to this option, but are concerned that there is potential to promote alcohol consumption, which is a risk factor for some types of cancer. • Very strongly oppose any nutrition or health claims on alcohol. • Support that alcohol may make low alcohol claims and claims in relation to low energy and reduced energy alcohol, but not carbohydrate claims. • Does not support the use of carbohydrate claims on alcoholic beverages, which are not necessarily lower in energy or alcohol content, as believes these types of claims may be misleading to consumers. • Recommends mandatory inclusion of nutrition information panels on all alcoholic beverages, not just those alcoholic beverages which make a claim. The rationale for this is because alcohol contains a significant amount of energy (29 kJ/g) and is a significant source of energy for regular drinkers (alcohol provided approximately 9% of energy in adult males in the 1995 National Nutrition Survey who were alcohol consumers). Comments that most drinkers are not aware that alcohol is a significant source of energy, so the inclusion of information on the high energy content of alcoholic beverages should be readily available.
The New Zealand Food Safety Authority (Carole Inkster)	Government - New Zealand	<ul style="list-style-type: none"> • Of the three options presented Option 2 is closest to the view of NZFSA. • Preference would be for specific alcohol and energy content claims to be listed in Standard 1.2.7 rather than be open ended. Do not support that a ‘high alcohol’ claim could be made with the current drafting. • Does not support carbohydrate nutrition content claims being made in relation to food that contains more than 1.15% alcohol by volume. States that all beers could be considered to be low carbohydrate and therefore such a claim could be deemed to be misleading. • Strongly suggests that where a voluntary nutrition information panel is declared on a food/beverage containing more than 1.15% alcohol by volume, the serving size should be regulated to be a ‘standard drink’ rather than being determined by the manufacturer.

Submitter	Group	Comments
Dietitians Association of Australia (Ms Kate Poyner)	Public Health - Australia	<ul style="list-style-type: none"> • Supports a modification of FSANZ’s preferred option 2 • Supports the provision of nutrition information in the form of a standard nutrition information panel. • Comments that low alcohol Beers (42 kJ per 100 mL) are significantly lower in kilojoules than standard beer (155 kJ per 100 mL). Supports the continued permission for the use of lower alcohol and lower energy claims on the labels of alcoholic beverages. • Does not support low carbohydrate claims can on alcoholic beverages, believes such claims are not in line with FSANZ’s core objectives of the ‘protection of public health and safety’, or the ‘prevention of misleading or deceptive conduct’. • Comments: ‘there is very little difference in the total kilojoule content between low carbohydrate beers (123 kJ per 100 mL) 1, and their regular counterparts (155 kJ per 100 mL) 1. Low alcohol beers, on the other hand do contain substantially less kilojoules as mentioned above. Beer is not, and never has been, a significant source of carbohydrate (2 g per 100 mL in standard beer; 1.1 g per 100 mL in low alcohol beer; 0.9 g per 100 mL in ‘low carbohydrate’ beer). Although there are technically no definitions of ‘Low Carbohydrate’ in the provisions for nutrition, health and related claims (its worth noting that the DAA argued in previous submissions on P293 and at the P293 SDAC. that there should be); compared to most nutritive beverages (average of 15 g of carbohydrate per 100 mL) 1, beer could be defined as low-carbohydrate in its standard form. To suggest that a beer containing 1 g per 100 mL less is lower in carbohydrate, while technically correct, is highly misleading’. • Comments: ‘the increased fermentation time required to decrease the carbohydrate content by 1 g increases the alcohol content, which is why there is negligible difference between so called low-carbohydrate beers and their regular counterpart (alcohol of course provides nearly twice as many kilojoules per gram). • States that people with diabetes who use certain common oral hypoglycaemic agents (e.g. sulphonylureas) and insulin may be at increased risk of severe hypoglycaemia if they consume them. • Anecdotally, many people with diabetes mistakenly believe that ‘low carbohydrate’ beers are a more suitable choice than regular beers, when in fact the opposite is true.
Glycemic Index Symbol Program (Alan Barclay)	Public Health - Australia	<ul style="list-style-type: none"> • Support a modification of FSANZ’s preferred option 2 • Supports the provision of nutrition information in the form of a standard nutrition information panel. • Comments that low alcohol Beers (42 kJ per 100 mL) are significantly lower in kilojoules than standard beer (155 kJ per 100 mL). Supports the continued permission for the use of lower alcohol and lower energy claims on the labels of alcoholic beverages. • Do not support low carbohydrate claims can on alcoholic beverages, believes such claims are not in line with FSANZ’s core objectives of the ‘protection of public health and safety’, or the ‘prevention of misleading or deceptive conduct’. • Comments: ‘there is very little difference in the total kilojoule content between low carbohydrate beers (123 kJ per 100 mL) 1, and their regular counterparts (155 kJ per 100 mL) 1. Low alcohol beers, on the other hand do contain substantially less kilojoules as mentioned above. Beer is not, and never has been, a significant source of carbohydrate (2 g per 100 mL in standard beer; 1.1 g per 100 mL in low alcohol beer; 0.9 g per 100 mL in ‘low carbohydrate’ beer).

Submitter	Group	Comments
		<p>Although there are technically no definitions of ‘Low Carbohydrate’ in the provisions for nutrition, health and related claims (its worth noting that the DAA argued in previous submissions on P293 and at the P293 SDAC that there should be); compared to most nutritive beverages (average of 15 g of carbohydrate per 100 mL), beer could be defined as low-carbohydrate in its standard form. To suggest that a beer containing 1 g per 100 mL less is lower in carbohydrate, while technically correct, is highly misleading’.</p> <ul style="list-style-type: none"> • Comments: ‘the increased fermentation time required to decrease the carbohydrate content by 1 g increases the alcohol content, which is why there is negligible difference between so called low-carbohydrate beers and their regular counterpart (alcohol of course provides nearly twice as many kilojoules per gram). • States that people with diabetes who use certain common oral hypoglycaemic agents (e.g., sulphonylureas) and insulin may be at increased risk of severe hypoglycaemia if they consume them. • Anecdotally, many people with diabetes mistakenly believe that ‘low carbohydrate’ beers are a more suitable choice than regular beers, when in fact the opposite is true.
NSW Centre for Public Health Nutrition (Dr Vicki Flood)	Public Health Australia	<ul style="list-style-type: none"> • Believes that the NIP should not only be limited to low energy/alcohol/carbohydrate claims, and that all types of alcoholic beverages should carry a mandatory nutrition information panel. • Believes consumers are unaware of the significant energy content of alcohol.
The Cancer Council Western Australia (Terry Slevin)	Public Health - Australia	<ul style="list-style-type: none"> • Believe that there should be no nutrition or health claims permitted on alcohol. • States that alcohol consumption increases risk of a number of common cancers. • Agree to allow alcohol to make low alcohol claims and claims in relation to low energy and reduced energy alcohol, but not low carbohydrate claims. • Recommend mandatory inclusion of nutrition information panels on all alcoholic beverages, not just those alcoholic beverages which make a claim.
The New Zealand Nutrition Foundation (Kelsey Woodcock)	Public Health – New Zealand	<ul style="list-style-type: none"> • Opposed to alcohol being exempt from the requirement to include a nutrition information panel (unless a nutrition claim is made). • Comment that NZ Food: NZ People notes that the mean proportion of energy from alcohol in the New Zealand population is around 4%, however unpublished research in certain groups has found that alcohol can contribute up to 20% of energy, which has a substantial impact on overall intake. • Believes there should be the requirement for mandatory labelling on all alcoholic beverages and food containing alcohol to have nutrition information panels, as this allows for consumer choice and provides consistency across all food and beverages. • Recommends permission of nutrition content claims on foods containing alcohol (more than 1.15%) in relation to alcohol and energy only. • Believe the energy content should be related to a standard drink (10g of alcohol) and the number of standard drinks in the container clearly labelled. Comment that this recommendation is more in line with the FSANZ objectives to protect public health and safety, to provide adequate information to allow for informed choices and to prevent misleading or deceptive conduct.
Australian Self Medication Industry	Therapeutic - Australia	<ul style="list-style-type: none"> • Supports FSANZ’s position.

Submitter	Group	Comments
Fonterra Co-Operative Group Limited	Industry – Australia & New Zealand	<ul style="list-style-type: none"> Endorses FSANZ’s proposed approach
Food and Beverage Importers Association	Industry - Australia	<ul style="list-style-type: none"> Support the proposed approach.
Foster’s Group	Industry - Australia	<ul style="list-style-type: none"> Support the recommendation to allow carbohydrate related nutrition content claims on foods containing more than 1.15% alcohol by volume. This would continue to permit existing claims already in the market place. Highlight that Foster’s provided FSANZ with information regarding the cost of any future prohibition on such claims in letter dated 20 October 2006. Concerned that the proposed standard may inadvertently prevent producers from including other information to inform consumers as to what is in the product. In particular are concerned about the definition of ‘property of the food’. As the definition of property of the food includes ‘ingredient’ (therefore a simple ingredient claim may be regulated as a nutrition content claim), as well as ‘any other feature’ so descriptors such as ‘soda water’ in a vodka and soda ready to drink (RTD) product may be regulated as a nutrition content claim. It is not clear what the words ‘associated’ and ‘purpose’ mean in the context of the definition of ‘property of the food’. Recommend the definition is redrafted to refer only to energy, nutrient or a biologically active substance. Complications relating to ingredient claims or physical descriptors would not arise. Alternatively the definition could be amended to link the ‘nutrition or health purpose’ to the claim, not the property (it would read ‘...that is directly linked by the manufacturer to a nutrition or health purpose...’). This would more clearly exclude mere ingredient and physical descriptions from the scope of the definition. Note similar problems with the definition of ‘biologically active substance’. The problem is that almost every food ingredient or component has had some research undertaken in relation to possible health effects. The definition would therefore make everything from water to an apple a biologically active substance and therefore reference to such things a nutrition content claim. The issue is whether any claim is being made, i.e. a substance for which a health effect is claim. Mere association in the academic literature should not be sufficient to turn an ingredient into a nutrition claim. Foster’s produce many products with more than 1.15% alcohol by volume that list ingredients on the packaging. The cost to them associated with changing labels would be considerable if the above interpretation is applied. Recommends that ‘property of the food’ is not defined so broadly as to preclude ingredient content claims on products with more than 1.15% alcohol by volume, or that further guidance is provided to make it clear the issues raised are not an intended outcome of the drafting.

Submitter	Group	Comments
Alcohol Healthwatch (Christine Rogan)	Public Health – New Zealand	<ul style="list-style-type: none"> • Believes that Application A576 to amend Standard 2.7.1 to require all alcoholic beverages to carry a pregnancy warning must be supported. • States that the cardio-vascular benefits from moderate alcohol consumption are overstated, unproven and if they do exist are limited to older people who would obtain greater benefits from risk-free sources other than alcohol. Believes that no regulatory or policy decision relating to alcohol should be based on questionable research and where no proven universal safe level exists. • Comments that to enhance efforts to increase folate uptake, alcohol products should carry information stating that consumption may interfere with the uptake of nutrients important to healthy development and nutrition.

2.3 Infant formula

Submitter	Group	Comments
SA Department of Health	Government - Australia	<ul style="list-style-type: none"> • Ministerial Policy Guidelines required exclusion of infant foods from health claims, however, only infant formula products have been excluded. • The exclusion should be extended to those foods regulated in Standard 2.9.2 and Standard 2.9.3, division 4, except where a claim is specifically permitted under these Standards. • Notes NHMRC and WHO recommendations for breastfeeding and introduction of foods. • Development of sound eating habits is critical, there is alarm about dietary habits in this age group, research shows that parents are confused, and there is evidence around the high rates of advertising of junk foods. • Rates of overweight, inadequate intakes of fruit and vegetables and excessive intakes of sugary fluids are of concern.
Frucor Beverages Ltd	Industry – Trans Tasman	<ul style="list-style-type: none"> • Agrees with the proposed approach.
Heinz Australia and Heinz Wattie’s (Heinz)	Industry – Trans Tasman	<ul style="list-style-type: none"> • Recommends that the exclusion from Standard 1.2.7 of products regulated in Standard 2.9.1 is removed. • Requests these products can carry nutrition content and general level health claims (not high level). • These products may be the sole source of nutrition for some infants and it is imperative that parents be provided with as much information as possible. • Is not a high risk food that can cause harm and should not be placed with alcohol and kava as this may invite negative inferences on its general nature. • Manufacturers are not able to market infant formula products to consumers under the WHO International Code of Marketing of Breast Milk Substitutes (WHO Code). This Code requires signatories to ensure: ‘...the proper use of breast milk substitutes, when they are necessary, on the basis of adequate information and through appropriate marketing and distribution.’ • To not allow claims under P293, Australia and NZ will be breaching their obligations under the WHO Code to provide adequate information. • Current labelling permissions within Standard 2.9.1 are considered inadequate and too restrictive to allow them to fulfil their obligations.

Submitter	Group	Comments
		<ul style="list-style-type: none"> • There are health and safety concerns when inappropriate choices are made. Also concerns with parental confusion and distress due to insufficient information to make an informed choice on which product to purchase.
Department of Health and Human Services - Tasmania	Government - Australia	<ul style="list-style-type: none"> • In support of excluding infant formula from making health claims, as this is in line with the Ministerial Policy Guideline.
South Australia Department of Health	Government - Australia	<ul style="list-style-type: none"> • Note that the Ministerial policy guidelines required the exclusion of infant foods from health claims; however, both the Draft Assessment and Preliminary Final Assessment Reports only exclude infant formula products. • The exclusions should be extended to cover foods regulated under 2.9.2 - Foods for Infants and 2.9.3 Division 4 – Formulated Supplementary Foods for Young Children, except where a claim is specifically allowed under these standards. • The National Health and Medical Research Council’s Dietary Guidelines for Children and Adolescents recommends: <ul style="list-style-type: none"> - Exclusive breastfeeding to 6 months - Continuation of breastfeeding to at least 12 months - Introduction of complementary foods from 6 months - Delay of introduction of cow’s milk until 12 months - Continuation of breastfeeding beyond 12 months as mother and baby desire. • The World Health Organisation recommends breastfeeding until at least 2 years of age. • The development of sound eating habits is a critical achievement in the early years and should be protected. Already there is alarm about dietary habits in this age group and research shows that parents are confused about what and how to feed their children. There is also evidence around the high rates of advertising of ‘junk foods’. • Current rates of overweight, inadequate intakes of fruit and vegetables and excessive intakes of sugary fluids are of concern and having a deleterious effect on young children’s health. There should be no threat to this critical period of development posed by additional permissions for food manufacturers to make claims on foods regulated under these two standards.
Department of Human Services - Victoria	Government - Australia	<ul style="list-style-type: none"> • Victoria recommends that thorough consumer research be undertaken to determine if there are any potential risks posed to young children as a result of health claims, prior to the application of health claims to this food category.
Queensland Health	Government - Australia	<ul style="list-style-type: none"> • Requests further clarification in regards to the exclusion of infant foods as per the policy guideline. The Preliminary Final Assessment and Draft Assessment reports (Pg 140) only excludes infant formulas and therefore Standard 1.2.7 should also exclude foods regulated under Standard 2.9.2 – Foods for Infants, except where a claim is specifically allowed in this standard. • Furthermore, Formulated Supplementary Foods for Young Children (Standard 2.9.3, Division 4) should also be excluded (except where a claim is specifically allowed in this standard).
Choice – Australia Supported by Consumer Institute of New Zealand	Consumer - Australia	<ul style="list-style-type: none"> • States that FSANZ used the term ‘infant formula’ where the Ministerial guidance had referred to the ineligibility of ‘baby food’ and ‘infant foods’. • Believes baby foods should not be eligible to carry nutrition content or health claims. A CHOICE study found some canned baby food products contain little of characterising ingredients. Health claims may encourage use of these products in place of breast milk at an earlier age.

Submitter	Group	Comments
Consumers' Institute of New Zealand Incorporated (Belinda Allan)	Consumers – New Zealand	<ul style="list-style-type: none"> • Supports the CHOICE position that baby foods (in addition to infant formula) should not be eligible to carry claims. • States that a Consumer report (September 2004) and CHOICE report (July 2004) found that some products contained significant amounts of water and thickener rather than the key ingredients such as cereals, meats, fruits and vegetables. • Concerned that health claims on baby foods may encourage consumers to use these products in place of breast milk at an earlier age.
New Zealand Ministry of Health (Cynthia Maling)	Government – New Zealand	<ul style="list-style-type: none"> • Agrees with the recommendation to exclude infant formula products. • Strongly recommends all infant foods are ineligible for health claims because most scientific evidence for health claims relates to adults and not infants, and Ministerial policy guidelines require the exclusion of infant foods from health claims.
Wyeth Aust/NZ	Industry – Trans Tasman	<ul style="list-style-type: none"> • Recommends that infant formula products be permitted to carry nutrition content claims and general level health claims. • Believes that substantiated claims on both infant and follow-on formulas are warranted, and their inclusion on these products meets the objectives of FSANZ as well as the interests of consumers. • Suggests that claims be limited to non-mandatory ingredients that are permitted to be added to infant and follow-on formulas by the Code, with the exception of iron, which should be declared on follow-on formulas due to the prevalence of iron deficiency. • The inclusion of an iron claim on follow-on formulas would also allow them to effectively compete with baby foods, which are allowed to make similar claims. • Considers that at the very least, restrictions on substantiated nutrition and health claims should not apply to follow-on formula as there is no justifiable argument for health claim restrictions on these products. • Believes that FSANZ's current position on health and nutrition claims for infant formula is in conflict with its stated objectives as well as domestic and international policy (<i>Provides summary and detailed evidence based rationale for permitting substantiating claims on infant and follow-on formulas in Appendix, which also includes a copy of what was included in their March 2006 submission to the Draft Assessment Report – a substantiated paper detailing the appropriateness of evidence based nutrition and health claims on infant formula products</i>) • Notes there is an abundance of evidence to support such claims and little or no evidence to support their exclusion. • Supports legislation that promotes fair trade. • Considers that the proposed Standard would create an anti-competitive distortion in the market for baby foods. • Reiterates that follow-on formulas (for infants 6 months plus) are a category of baby foods that competes directly with other baby foods (weaning baby foods). • The draft Standard proposes to treat such formulas differently from weaning baby foods, which will remain able to carry claims. • Note that to date, FSANZ has not provided details of any overriding policy objective that would justify such an anti-competitive outcome.
Fonterra Co-Operative Group Limited	Industry – Australia & New Zealand	<ul style="list-style-type: none"> • Continues to support claims being able to be made on infant foods (excluding infant formula) – it is important that consumers are educated about nutrition for young children

3. PERCENTAGE INTAKE INFORMATION

3.1 Conditions for making nutrition content claims - percentage intake labelling

Submitter	Group	Comments
ADECRON Food Tech Consulting	Industry – New Zealand	<ul style="list-style-type: none"> • Agrees with proposed approach. • Prefers the collapsed %DI in brackets behind the serving amounts, to help small labels. • Prefers the reduced 8700 kJ statement as the current statement is too long.
Australian Food and Grocery Council (AFGC) Supported by Simplot	Industry - Australia	<ul style="list-style-type: none"> • Supports proposed approach
Australian Medical Association (Dr Margaret Chirgwin)	Other - Australia	<ul style="list-style-type: none"> • Believes the %DI labels are in fact meaningless and therefore potentially very misleading. • Welcomes FSANZ's commitment to undertake further research into how consumers use nutrition information. • Supports Option 2 as recommended by FSANZ
Australian Self Medication Industry	Therapeutic - Australia	<ul style="list-style-type: none"> • Opposes the removal of %DI labelling in context to a health claim where the amount required of a particular macronutrient or functional ingredient on a daily basis in order to support a particular health claim is not covered by, or is in excess to, the RDI. • Notes that while current research indicates that %DI is poorly understood by consumers, the health claims environment may also be poorly understood, and %DI is critical information to underpin the validity of a claim. %DI information should form part of the education
Cadbury Schweppes Pty Ltd	Industry - Australia	<ul style="list-style-type: none"> • Does not support removal of requirement to declare %DI on products carrying claims. • This would provide consumers with greater information and is unlikely to lead to an increase in consumer concerns. • With stock in trade provision and appropriate lead in time for standard 1.2.7, costs to industry would be minimised and there should be no additional cost to enforcement agencies.
Choice – Australia	Consumer - Australia	<ul style="list-style-type: none"> • Supports proposal to not require %DI. Are concerned that %DI labelling is not the most effective way of using labels to assist consumers in making healthier choices.
Coles Supermarkets	Industry – Australia	<ul style="list-style-type: none"> • Supports the proposed approach. • Provision of %DI is unnecessarily complicated for consumers and requires extensive education. • Mandatory requirement for a nutrition information panel ensures consumers can find all relevant information to check a claim.

Submitter	Group	Comments
<p>Confectionery Manufacturers of Australasia (CMA) Limited</p> <p>Supported by CMA New South Wales, CMA Victorian Branch, CMA Queensland Branch, CMA NZ Branch and CMA South Australian Branch, International Confectionery Association</p>	<p>Industry – Trans Tasman</p>	<ul style="list-style-type: none"> • Supports removal of the mandatory requirement for %DI labelling.
<p>Consumers' Institute of New Zealand Incorporated (Belinda Allan)</p>	<p>Consumers – New Zealand</p>	<ul style="list-style-type: none"> • Supports Option 2 as recommended by FSANZ
<p>Dairy Australia</p>	<p>Industry - Australia</p>	<ul style="list-style-type: none"> • Supports Option 2 to remove the provisions for mandatory %DI labelling in the nutrition information panel. The %DI concept allows for less nutritious foods to appear more attractive when the focus is on counting calories (kilojoules). For example, an orange drink or rice milk drink supplemented with calcium may appear a good choice when the focus is on energy, despite milk providing a wide range of essential nutrients. • While the basis of 8,700 kJ of daily energy intake may be average, it is actually somewhere between the typical diets of a man and a woman i.e. virtually no one in the population would be recommended to consume this amount of energy. In the 1995/6 National Nutrition Survey, the median energy intakes for men and women aged at least 19 years were 10,376 kJ and 7,083 kJ, respectively. • The 8,700 kJ value may confuse women into over-consuming and encourage men to consider the information on food labels to be irrelevant. We also believe that it is not appropriate to include the %DI on children's foods. • Removing the mandatory requirement removes the additional labelling costs to industry. It also allows time for research to be done into the most effective way of communicating on food labels and the appropriateness of 8700 kJ for children and for adults who are inactive and of small stature.

Submitter	Group	Comments
Dairy Farmers	Industry - Australia	<ul style="list-style-type: none"> • Supports Option 2 against mandatory %DI labelling. • Lists the following advantages: <ul style="list-style-type: none"> - it removes additional costs to industry when the advantages are not clear as indicated by FSANZ consumer research. - it reduces the risk of increasing the attractiveness of less nutritious foods compared to nutrient dense foods such as milk and dairy where micronutrients are in natural combination with protein, carbohydrate and fats which contribute to the energy value of the food. For example an orange juice or rice drink supplemented with calcium may look a better choice if counting kilojoules than milk, despite these not providing the range of essential nutrients in milk. - allows time for more research to be done into the most effective way of communicating on food labels and how to allow for the inappropriateness of 8700 kJ DI for energy for children and those who are very inactive or of small stature.
Department of Agriculture, Fisheries and Forestry (DAFF)	Government - Australia	<ul style="list-style-type: none"> • Supports the removal of the requirement for all food products carrying nutrition content claims to include %DI information in the nutrition information panel. • Acknowledges that there is no evidence that this additional information will benefit consumers and it would, therefore, impose unnecessary labelling costs on industry.
Department of Health and Human Services - Tasmania	Government - Australia	<ul style="list-style-type: none"> • Supports Option 2, the removal of %DI labelling for nutrition content claims as this was not shown to be an effective risk management strategy to reduce consumer confusion regarding nutrition content claims. • In addition, supports a review of consumer understanding of nutrition content claims to be included in the Final Assessment Report and implementation of appropriate risk management strategies to prevent consumer confusion from misunderstanding or being misled regarding the nutritional quality of products with nutrition content claims.
Department of Human Services - Victoria	Government - Australia	<ul style="list-style-type: none"> • Victoria supports Option 2 – to remove the requirement for %DI labelling on foods carrying nutrition claims, however maintain that often nutrition content claims can be misleading (e.g. foods that are labelled ‘fat free’ but are high in sugar) and believe FSANZ should provide an alternative risk management strategy for minimising misleading claims. Victoria proposes that this could be addressed in detail during the consideration of Front of Pack Labelling.
Dietitians Association of Australia (Ms Kate Poyner)	Public Health - Australia	<ul style="list-style-type: none"> • Supports FSANZ’s position, in particular the need to monitor consumer understanding of these types of claims. • Believes consideration should be given to recommend the use of age specific RDIs for foods that are intended to be consumed by infants and children.
Fonterra Co-Operative Group Limited	Industry – Australia & New Zealand	<ul style="list-style-type: none"> • Endorses FSANZ’s proposed approach
Food and Beverage Importers Association Supported by Unilever Australasia	Industry - Australia	<ul style="list-style-type: none"> • Strongly support the proposed approach. • To require %DI labelling would have necessitated extensive and impractical relabelling of foods in Australia. • The result would have been trade severely restricted or claims no longer made on imported foods.

Submitter	Group	Comments
Frucor Beverages Ltd	Industry – Trans Tasman	<ul style="list-style-type: none"> Agrees with the proposed approach.
General Mills Australia Pty Ltd and General Mills New Zealand Ltd Cereal Partners Worldwide Nestlé	Industry – Trans Tasman	<ul style="list-style-type: none"> Supports the removal of the mandatory requirement. Supports the view that there is no strong evidence that content claims can mislead consumers and distort the diet.
Heinz Australia and Heinz Wattie’s (Heinz)	Industry – Trans Tasman	<ul style="list-style-type: none"> Supports the proposed approach.
Horticulture Australia Limited	Industry - Australia	<ul style="list-style-type: none"> Supports the proposed approach.
Kraft Foods Limited	Industry - Australia	<ul style="list-style-type: none"> Supports the proposed approach, as no evidence of failure, label space and easier for importing/exporting. FSANZ have missed the point with their research. FSANZ should be looking at whether consumers have enough information to enable them to appropriately place the food in their diet, e.g. is it an everyday food or one to be taken sparingly but which gives variety.
Murray Goulburn Co-operative	Industry – Australia	<ul style="list-style-type: none"> Supports that %DI is not mandated for labels
New South Wales Food Authority	Government - Australia	<ul style="list-style-type: none"> Questions FSANZ’s logic in suggesting that % DI labelling are a useful risk management tool for assisting consumers interpret claims, following its own research indicating that consumers may not readily understand such information. NSW suggests that FSANZ progress an education campaign targeting consumer understanding of % DI labelling as a matter of priority.
New South Wales Food Authority	Government - Australia	<ul style="list-style-type: none"> Concerned about consumer understanding between information reported on a label as a general level health claim (passing eligibility criteria) and information reported as %DI labelling or general dietary information (product does not need to pass eligibility criteria). Upon commencement of Standard 1.2.7, food products carrying general level/high level health claims may be placed immediately next to products that are eligible to carry only nutrient content claims (% DI labelling). Without explanation, the consumer will not be aware that one product has passed an eligibility criteria and one product has not. An example is breakfast cereals, the majority of products marketed by Kellogg’s will not (without reformulation) pass the eligibility criteria; however they will be marketed next to other products that do (e.g. Weet-bix).
New Zealand Dietetic Association (Jan Milne)	Public Health – New Zealand	<ul style="list-style-type: none"> Supports Option 2 as recommended by FSANZ

Submitter	Group	Comments
New Zealand Food and Grocery Council (NZFGC) Supported by Unilever Australasia	Industry – New Zealand	<ul style="list-style-type: none"> • Supports the proposed approach. • It is pleasing to note that there is no strong evidence that content claims can mislead consumers and lead to distorted diets.
New Zealand Ministry of Health (Cynthia Maling)	Government – New Zealand	<ul style="list-style-type: none"> • Supports Option 2 as recommended by FSANZ
Parmalat	Industry – Australia	<ul style="list-style-type: none"> • Supports option 2 that removes mandatory %DI labelling on products carrying claims. • Agrees that more effort is given to consumer education and familiarity with the concept of %DI.
Queensland Health	Government - Australia	<ul style="list-style-type: none"> • Supports option 2 - the recommendation to remove the mandatory requirement for %DI on products with nutrition content claims.
SA Department of Health	Government - Australia	<ul style="list-style-type: none"> • Supports the proposed approach.
Sanitarium Australia/New Zealand	Industry – Australia/New Zealand	<ul style="list-style-type: none"> • Supports proposal
Simplot Australia Pty. Ltd.	Industry - Australia	<ul style="list-style-type: none"> • Supports option 2 – do not require % DI labelling on products carrying health and nutrition content claims.
South Australia Department of Health	Government - Australia	<ul style="list-style-type: none"> • Supports option 2 – removing the requirement of %DI labelling on foods carrying nutrition content claims. FSANZ research shows that the %DI concept is considered relatively complex and cannot be easily understood by those who already have difficulty with existing nutrition labelling information.
The Cancer Council Australia (Kathy Chapman, Sarah Mackay, Terry Slevin) Supported by the Cancer Council Western Australia	Public Health - Australia	<ul style="list-style-type: none"> • Agrees that is appropriate to address percent daily intake labelling after the full labelling review by the Food Regulations Standing Committee.
The National Heart Foundation of Australia (Anne-Marie Mackintosh)	Public Health - Australia	<ul style="list-style-type: none"> • Supports Option 2. • Supportive of the need for further evaluation of the extent to which consumers are misled by content claims, and what measure would reduce confusion. • In light of the NRVs, questions the value selected of energy value 8700 kJ and associated micro- and macronutrient needs of a typical adult which gives no consideration for the varying needs of the heterogeneous adult population, children and adolescents.

Submitter	Group	Comments
The National Heart Foundation of New Zealand (Anna Malan)	Public Health – New Zealand	<ul style="list-style-type: none"> • Supports Option 2. • Supportive of the need for further evaluation of the extent to which consumers are misled by content claims, and what measure would reduce confusion. • In light of the NRVs, questions the value selected of energy value 8700 kJ and associated micro- and macronutrient needs of a typical adult which gives no consideration for the varying needs of the heterogeneous adult population, children and adolescents.
Wrigley	Industry - Australia	<ul style="list-style-type: none"> • Supports removal of mandatory requirement for %DI on products with health or nutrient content claim
The New Zealand Food Safety Authority (Carole Inkster)	Government - New Zealand	<ul style="list-style-type: none"> • Supports Option 2 as recommended by FSANZ

3.2 Voluntary percentage intake labelling

Submitter	Group	Comments
Australian Medical Association (Dr Margaret Chirgwin)	Other - Australia	<ul style="list-style-type: none"> • Believes that %DI labelling should be prohibited. • Does not support either of the proposed options.
Consumers' Institute of New Zealand Incorporated (Belinda Allan)	Consumers – New Zealand	<ul style="list-style-type: none"> • Comments that FSANZ research concluded that some consumers had difficulty interpreting percentage daily intake information on the front of labels. • Believes it is important that foods ineligible to carry nutrition and health claims should not be able to display percentage daily intake information on the front-of-pack.
Dietitians Association of Australia (Ms Kate Poyner)	Public Health - Australia	<ul style="list-style-type: none"> • Supports Option 2 as recommended by FSANZ
New Zealand Ministry of Health (Cynthia Maling)	Government – New Zealand	<ul style="list-style-type: none"> • Agrees with the recommendation to continue to allow voluntary %DI as part of the nutrition information panel (NIP). • Prefers %DI labelling outside the NIP be prohibited for the following reasons: <ol style="list-style-type: none"> 1. research commissioned by FSANZ shows consumers find this concept confusing and unhelpful; 2. the focus is on selected nutrients and not the overall nutrient profile; 3. it is not based on the most up-to-date information or the current NRVs; 4. serving size is specified by the manufacturer and subject to manipulation ; 5. current %DI front of pack labelling styles are inconsistent and vary between manufacturers; and 6. it requires additional monitoring and enforcement. • Comments that currently some very high sugar products such as confectionery include %DI labelling, which is inappropriate and not helpful to consumers. • Supports the concept of universal signposting as a tool for communicating complex nutritional information to consumers, but believe consumer research is required to determine the most appropriate and useful signposting method.

Submitter	Group	Comments
		<ul style="list-style-type: none"> Comments that if voluntary %DI is permitted as front of pack labelling, recommend that %DI is permitted for compulsory NIP nutrients only, must be presented for both risk- reducing and risk-increasing nutrients, and food standards are updated to reflect new NRVs.
Private (Jack Ward)	Consumer - Australia	<ul style="list-style-type: none"> Supports Option 2 as recommended by FSANZ
The National Heart Foundation of Australia (Anne-Marie Mackintosh)	Public Health - Australia	<ul style="list-style-type: none"> Does not support either of FSANZ' proposed options. Supportive of any initiative that genuinely guides people to healthier food and drink choices. Questions whether the labelling schemes currently under consideration such as 'percent of daily intake' will guide people to healthier choices. Comments: 'a key question to resolve is whether numerical values on food labels should be based on individual or population recommendations because it is yet to be decided whether food labels should be regarded as individual advice or population advice? Also whether it should be selected from one population subgroup or a population weighted values? How do consumers interpret these values and does in fact the use of %DI has more potential to mislead consumers about making healthier food choices. For example in the case of sodium, the reference value for %DI is based on 2300 mg. This value is a maximum upper level limit. Yet for fibre the reference value is 30g which is a minimum level to achieve'. Urges FSANZ to consider these questions and to re- evaluate percent dietary intake in light of the proposed standard and future changes to revising the reference values for the NIP.
The National Heart Foundation of New Zealand (Anna Malan)	Public Health – New Zealand	<ul style="list-style-type: none"> Supports labelling schemes that are proven to help New Zealanders make healthier food and drink choices.
The New Zealand Food Safety Authority (Carole Inkster)	Government - New Zealand	<ul style="list-style-type: none"> Supports Option 2 as recommended by FSANZ
The New Zealand Nutrition Foundation (Kelsey Woodcock)	Public Health – New Zealand	<ul style="list-style-type: none"> Supports FSANZ decision to undertake further research on %DI labelling, but remains concerned about the relevance and value of %DI to consumers as reference daily intakes vary for gender, age, physical activity etc and also due to the calculation of %DI being dependent on serving size, which is yet to be standardised. Believes that allowing %DI labelling on all food has the potential to mislead consumers into thinking that the product is healthy and therefore carries the risk of excess nutrient intakes due to overuse of certain products.
ADECRON Food Tech Consulting	Industry – New Zealand	<ul style="list-style-type: none"> If a claim is made elsewhere on the pack e.g., front of pack tabs) this should be in association with a clear statement of the serving size. I.e. add under 7.3 (c) 'and the serving size is given in the same place'. Otherwise consumers would need to refer to the panel to compare %DI on similar products with different serving sizes. Suggests testing consumer understanding of tabs with/without serving sizes and different serving size on products. Recommends Standard 1.2.8, clause 7(7) is changed to '... on the same form and same quantity of the food'.

Submitter	Group	Comments
Australian Beverages Council Ltd Supported by Unilever Australasia	Industry - Australia	<ul style="list-style-type: none"> Seeks clarification as to whether the proposed approach would prohibit the inclusion of %DI labelling for micronutrients (i.e. will they be able to include %DI labelling of vitamins and minerals on front of pack?). Concerned that this would not allow for %DI labelling of energy plus micronutrients. Question the appropriateness of requiring %DI labelling of fats and protein for water or juice based beverages and request that %DI for fats and protein not be required when not present or in negligible amounts. Fat and protein is found in the nutrition information panel and consumers don't expect fat or protein to be in products such as formulated beverages or juices. Including %DI for values of zero or <1 is meaningless and may be confusing.
Australian Food and Grocery Council (AFGC) Supported by Simplot	Industry - Australia	<ul style="list-style-type: none"> There is no evidence for the need to constrain the use of voluntary %DI labelling and further restriction is not necessary. The information FSANZ is proposing be included is available in the nutrition information panel.
Australian Self Medication Industry	Therapeutic - Australia	<ul style="list-style-type: none"> Supports the use of %DI sign posting external to the NIP, believe it should be mandatory for functional ingredients serving as the basis for health claims.
Cadbury Schweppes Pty Ltd	Industry - Australia	<ul style="list-style-type: none"> Supports recommendation for %DI for energy alone to be presented outside the nutrition information panel as proposed.
Choice – Australia	Consumer - Australia	<ul style="list-style-type: none"> Supports option 1 – products that fail to meet claim conditions for energy, macronutrients, sodium should be prohibited from carrying front-of-pack %DI labelling since FSANZ research indicates that consumers have difficulty in interpreting %DI values. Could be reassessed after FRSC review of front-of pack labelling completed.
Coles Supermarkets	Industry – Australia	<ul style="list-style-type: none"> While provisionally supporting the <i>status quo</i> retention of current permissions for voluntary %DI labelling in the nutrition information panel, suggests that zealous food industry action to use %DI labelling outside the NIP without being considered a nutrient claim, has yet again preceded legislative engagement. FSANZ is almost in a position now where the horse has bolted and it is too late to shut the regulatory gate. Submits that the average consumer will not be able to accurately interpret %DI for energy, on the basis of their individual energy requirements. Average energy intake of 8700 kJ is not meaningful information and could be misleading. The values were never intended for labelling information or for foods targeted at children or adolescents. Consumers or most health professionals would not be able to clearly describe the difference between %RDI and %DI. %RDI is a positive target however for those wishing to control weight, consumers may be wishing to reduce %DI for energy. An Australian wide campaign for consumer would be required to prevent consumers trying to reach a 100% energy target, not useful to curb population obesity. Labelling of %DI for energy also targets energy without accounting for nutrient density, which may be misleading. A major issue is the presentation of %DI on front of pack per serve, which can be misleading for high energy density foods, such as confectionery, sold in small portion sizes. This permits claims on foods that would not meet the nutrient profiling criteria.

Submitter	Group	Comments
		<ul style="list-style-type: none"> • Strongly recommends that while provisional support is provided for retaining the <i>status quo</i> permissions for voluntary %DI labelling in the nutrition information panel, that the legislative provision be sunset for regulatory review of %DI labelling used outside the NIP without being considered a nutrient claim, subject to: <ul style="list-style-type: none"> – evaluation of an industry education program improving consumer understanding of %DI labelling used outside the NIP without being considered a nutrient claim; plus – a regulatory review of the usefulness and effectiveness of food labelling systems.
Community and Public Health, Canterbury District Health Board	Public Health – New Zealand	<ul style="list-style-type: none"> • Permission for %DI of energy to be labelled outside the nutrition information panel is strongly in favour of industry and is of serious public health concern. %DI will potentially become a marketing tool rather than strategy for informed choice for consumers. • Current food labelling has required intense education and resources, and if %DI is allowed, explaining %DI will involve further intense education over many years. • Recommends signposting of %DI where claim conditions are not met is prohibited, as the benefit for option 1 in the report outweighs the disadvantages from a public health perspective.
Confectionery Manufacturers of Australasia (CMA) New South Wales Branch. Victorian Branch, South Australian Branch, Queensland Branch, NZ Branch International Confectionery Association	Industry – Australia	<ul style="list-style-type: none"> • Supports proposed approach for permission for voluntary %DI labelling. • This approach supports industry initiative to assist consumer choice and is backed by consumer research. • In conjunction with CMA’s Be Treatwise programme it will prevent consumers being misled about energy content and their role in an average diet. • A high volume of product bearing this labelling will be launched in Australia and NZ in the coming months and will be supported by targeted education campaigns.

Submitter	Group	Comments
<p>Confectionery Manufacturers of Australasia (CMA) Limited</p> <p>Supported by CMA New South Wales, CMA Victorian Branch, CMA Queensland Branch, CMA NZ Branch and CMA South Australian Branch, International Confectionery Association</p>	Industry – Trans Tasman	<ul style="list-style-type: none"> • Supports proposed approach for permission for voluntary %DI labelling. • Notes industry initiative for %DI labelling to assist consumer choice and understanding of daily intake. • CMA has encouraged members to use a ‘Be treatwise’ logo on packaging which refers consumers to the back of pack and informs them of the nutrient values (third column in nutrition information panel and in thumbnails), and to a website which further explains the information. • Expect that confectionery with this labelling will be widely available by the end of third quarter of 2007.
Dairy Australia	Industry - Australia	<ul style="list-style-type: none"> • Supports Option 2 to allow provisions for voluntary %DI labelling which is external to the nutrition information panel. Voluntary signposting is being undertaken by some dairy companies and has been found to be a useful tool to communicate nutrition to consumers in a simpler manner.
Dairy Farmers	Industry - Australia	<ul style="list-style-type: none"> • Supports Option 2 for voluntary %DI labelling.
Department of Agriculture, Fisheries and Forestry (DAFF)	Government - Australia	<ul style="list-style-type: none"> • Supports the recommendation that allows industry to continue to use %DI labelling voluntarily.
Department of Health and Human Services - Tasmania	Government - Australia	<ul style="list-style-type: none"> • Recognises that %DI labelling is being positioned by industry groups as nutrition signposting and Option 2 – to permit voluntary %DI labelling outside the nutrition information panel will support this initiative. It is also worth noting that the Food Regulation Standing Committee has a working group investigating the evidence on front of pack labelling. Future directions by the Food Regulation Ministerial Council may impact on this clause. • Supports continuation of existing permission for %DI noting that consumer understanding of %DI should also form part of review of implementation of nutrition, health and related claims.
Department of Human Services - Victoria	Government - Australia	<ul style="list-style-type: none"> • Supports option 2 – permit voluntary %DI labelling outside of the nutrition information panel.
Fonterra Co-Operative Group Limited	Industry – Australia & New Zealand	<ul style="list-style-type: none"> • Endorses FSANZ’s proposed approach
Food and Beverage Importers Association Supported by Unilever Australasia	Industry - Australia	<ul style="list-style-type: none"> • Supports the proposed approach.

Submitter	Group	Comments
Food Technology Association of Victoria Inc (David Gill)	Industry - Australia	<ul style="list-style-type: none"> Supports option 2 as recommended by FSANZ
Frucor Beverages Ltd	Industry – Trans Tasman	<ul style="list-style-type: none"> Agrees with the proposed approach. Where %energy DI thumbnail is used, industry guidelines require %DI to be provided for six nutrients in the same order as listed on the nutrition information panel, within the panel.
General Mills Australia Pty Ltd and General Mills New Zealand Ltd Cereal Partners Worldwide Nestlé	Industry – Trans Tasman	<ul style="list-style-type: none"> Supports inclusion of voluntary %DI labelling as recommended in the PFAR.
General Mills Australia Pty Ltd and General Mills New Zealand Ltd Cereal Partners Worldwide Nestlé	Industry – Trans Tasman	<ul style="list-style-type: none"> Supports the subclauses of clause 7(A) but recommend that subclause (4) should read ‘...a food that contains no more than 1.15% alcohol by volume...’ because foods containing more than 1.15% alcohol are not permitted to make any nutrition content claims other than claims about energy, carbohydrate and alcohol content. Also the only nutrients that are permitted to be declared in a voluntary nutrition information panel are the standard nutrients.
George Weston Foods Limited	Industry - Australia	<ul style="list-style-type: none"> Supportive of the approach FSANZ have taken to %DI labelling.
Goodman Fielder Limited	Industry – Australia & New Zealand	<ul style="list-style-type: none"> Supports FSANZ’s preferred option that products carrying health and nutrition content claims should not be required to display %DI labelling. Support the continued use of voluntary %DI labelling both in the nutrition information panel as well as elsewhere on pack.
Kraft Foods Limited	Industry - Australia	<ul style="list-style-type: none"> Recommends that %DI signposting should be permitted for energy and any other relevant nutrient. Notes that %DI should be encouraged, ongoing education is required, and the message simple, with simple rules around how to translate the 8700 kJ for other age-groups. There is too much restriction in the proposed option. If the information is factual and the mandatory information is displayed appropriately, then no further restrictions need apply. May not be enough space for the proposed information and it is available in the nutrition information panel.

Submitter	Group	Comments
MasterFoods Australia New Zealand	Industry – Australia & New Zealand	<ul style="list-style-type: none"> • That the provision of %DI information in a graphic ‘thumbnails’ format will aid consumers to make informed choices. MasterFoods ANZ has commenced to voluntarily introduce this labelling across all products. • Supports the AFGC opinion that: <ul style="list-style-type: none"> – %DI should continue to be allowed if there is space because claims relate to the serve size. – %DI energy is a convenient reference point for the relative amounts of the nutrients.
New South Wales Food Authority	Government - Australia	<ul style="list-style-type: none"> • Suggests that further criteria be introduced for foods marketed at young children, namely that consumers are informed that %DI information is reported against an average adult daily intake of 8700 kJ. Energy requirements of young children are likely to be significantly less than this figure, and the quantity reported on food packages as %DI information is not directly transferable to young children. Concerned that the average consumer will not understand the difference and may base a purchase decision on %DI labelling. • Considers this to be a potentially misleading practice on the consumer. • Strongly supports FSANZ’s intention to review consumer understanding of information presented in nutritional information panels, inclusive of %DI labelling. Further suggests that consumer understanding of information presented as % DI labelling and information presented as a general level health claim be investigated.
New Zealand Food and Grocery Council (NZFGC) Supported by Unilever Australasia	Industry – New Zealand	<ul style="list-style-type: none"> • Supports permission for voluntary %DI labelling which is external to the nutrition information panel.
Parmalat	Industry – Australia	<ul style="list-style-type: none"> • Supports option 2 – allowing voluntary labelling of %DI, energy, and macro and micro nutrients outside the nutrition information panel. • Coupled with appropriate consumer education, it is a useful means for communicating nutrition data to consumers.
Queensland Health	Government - Australia	<ul style="list-style-type: none"> • Supports option 2 – the recommendation to permit voluntary %DI labelling outside of the nutrition information panel.
SA Department of Health	Government - Australia	<ul style="list-style-type: none"> • Supports voluntary %DI signposting as long as the 8700 kJ statement and the serve size are both in print of a size in proportion to the size of the %DI and are in very close proximity to the signpost.
South Australia Department of Health	Government - Australia	<ul style="list-style-type: none"> • Supports this outside the nutrition information panel, only if <ol style="list-style-type: none"> 1. the associated words referring to 8700 kJ, and 2. the size of the reference point (e.g. one serve of x gm/mL, or the whole package if that is the unit of consumption) are both in print of a size in proportion to the size of the %DI label and are in very close proximity to the ‘signpost’ (i.e. cannot be in a different location on the label).

4. CONDITIONS FOR FOOD AS PREPARED OR AS SOLD

Submitter	Group	Comments
Cadbury Schweppes Pty Ltd	Industry - Australia	<ul style="list-style-type: none"> Supports recommendation for criteria to be based on food as prepared/consumed as this gives consumers a true indication of the nutrition content of the food when consumed.
Kraft Foods Limited	Industry - Australia	<ul style="list-style-type: none"> Supports the proposed approach.
New Zealand Food and Grocery Council (NZFGC) Supported by Unilever Australasia	Industry – New Zealand	<ul style="list-style-type: none"> Agrees that claims be permitted on food as sold or as prepared or consumed. For packaged food this will generally be in the form suggested in the directions for use on the label.
ADECRON Food Tech Consulting	Industry – New Zealand	<ul style="list-style-type: none"> The proposed approach permits products such as flavoured sugar to be added to milk to make claims about the milk, not the product itself. A similar situation exists with Supplementary Foods. This is misleading and probably not the intention of the Code.
Coles Supermarkets	Industry – Australia	<ul style="list-style-type: none"> Supports the conditions for food as prepared or consumed being specified in the Standard. Suggests the format for a third NIP column is defined and an example NIP provided in the user guide. Recommends the recommendations in section 4.3.1 and the information in 4.3.6 be included in a user guide for clarity.
General Mills Australia Pty Ltd and General Mills New Zealand Ltd Cereal Partners Worldwide Nestlé	Industry – Trans Tasman	<ul style="list-style-type: none"> Supports that the form of the food ‘as consumed’ has been considered important for qualifying to make a health claim. Supports the proposed approach. Where a food is labelled with directions for use, the prepared form should be used to determine the eligibility for making a claim.
Department of Health and Human Services - Tasmania	Government - Australia	<ul style="list-style-type: none"> Supports eligibility criteria to be based on the food as sold or as prepared/consumed. Claims on food need to refer clearly to ‘as sold’ or ‘as prepared’ so that consumers are not confused when comparing products or making choices. It is noted that qualifying criteria and eligibility to make a claim based on the nutrient profile cannot be based solely on added foods in the process of preparation. It is not clear how decisions around this will be made or enforced.
New South Wales Food Authority	Government - Australia	<ul style="list-style-type: none"> Assumes that the user guide referenced [in point 4: ‘<i>The claim must indicate the form of the food to which the claim applies (this will be outlined in a user guide)</i>’] as an aide to deciding the form of the food a claim applies to will be enforceable and capable of use in enforcement activities.
New South Wales Food Authority	Government - Australia	<ul style="list-style-type: none"> Does not support the current permission for allowing health claims on food packages when following the addition of further ingredients to the food in accordance with label directions, the final food does not comply with the conditions of the claim. Suggest this permission is removed from the Standard.

Submitter	Group	Comments
Dairy Australia	Industry - Australia	<ul style="list-style-type: none"> Agrees with Option 2 that the eligibility criteria be based on food as prepared or as sold where there are explicit directions on the label. This is an important option for powdered milks and milk flavourings where for example, the powder is not consumed on its own. It would be more informative to consumers to link the eligibility criteria to the product – ‘as prepared’. Thus, Dairy Australia supports the requirements that a claim must clearly refer to the prepared form of the food and have appropriate information in the nutrition information panel as this will provide more meaningful information to consumers.
Department of Human Services - Victoria	Government - Australia	<ul style="list-style-type: none"> Supports option 2 for eligibility criteria to be based on the food as sold or as prepared/consumed.
Sanitarium Australia/New Zealand	Industry – Australia/New Zealand	<ul style="list-style-type: none"> Supports the intent of including ‘as prepared’ or ‘as sold’ Considers is opportunity for abuse with current wording If manufacturer wanted to make a claim about a product that did not meet the profiling criteria except when mixed with another food, by adding preparation instructions and extra column in NIP, claim could be possible e.g. Fruit Loops cereal with adding 125 mL skim milk per serving Suggests this loophole is closed Recommendation 6 in the PFAR states that eligibility to make a claim cannot be based solely on added food. Suggest there is a need to define what percentage of the claim component can come from added food. E.g. could a claim be made when 99% of calcium comes from added milk? Suggests that the original product needs to be at least eligible for a ‘source of’ content claim to ensure consumers are not misled
Food Technology Association of Victoria Inc (David Gill)	Industry - Australia	<ul style="list-style-type: none"> Supports option 2 as recommended by FSANZ
New Zealand Ministry of Health (Cynthia Maling)	Government – New Zealand	<ul style="list-style-type: none"> Recommends Standard 1.2.7 apply to food as intended to be consumed. States that if there is uncertainty as to how a food will be prepared/consumed, then Standard 1.2.7 should apply to both the food as sold and the food as intended to be consumed. Believes this is necessary to prevent industry from manipulating instructions for food preparation to enable products to make a claim.
The Cancer Council Australia (Kathy Chapman, Sarah Mackay, Terry Slevin) Supported by the Cancer Council Western Australia	Public Health - Australia	<ul style="list-style-type: none"> Supports Option 2 as recommended by FSANZ Asks FSANZ to consider if food should be profiled ‘as sold’ or ‘as prepared’ as believes this may make a difference for eligibility for some foods (e.g. breakfast cereal, hot chips).
The New Zealand Food Safety Authority (Carole Inkster)	Government - New Zealand	<ul style="list-style-type: none"> Supports Option 2 as recommended by FSANZ

Submitter	Group	Comments
Private (Jack Ward)	Consumer - Australia	<ul style="list-style-type: none"> Supports Option 2 as recommended by FSANZ
Dietitians Association of Australia (Ms Kate Poyner)	Public Health - Australia	<ul style="list-style-type: none"> Supports Option 2 as recommended by FSANZ
NSW Centre for Public Health Nutrition (Dr Vicki Flood)	Public Health Australia	<ul style="list-style-type: none"> Believes there is potential risk of misleading consumers and this section of the standard requires further refinement. Manufacturers can manipulate preparation methods to ensure products are eligible, e.g. high sugar breakfast cereals served with milk. High sodium foods requiring addition of large amounts of water become eligible, e.g. 2 minute noodles, although when consumed as a whole, the sodium content remains the same. Consumers may not prepare the product as instructed. Have examined a range of popular breakfast cereals for eligibility to carry a health claims (results included in submission). Comments that eligibility differs depending on if the calculation is conducted on 'as sold' or 'as prepared'. Believes all breakfast cereals should be profiled 'as sold', not 'as prepared' to avoid ambiguity.
The Public Health Association of Australia (Kemmett)	Public Health - Australia	<ul style="list-style-type: none"> Concerned that there effectively is a loop hole in the proposed standard that may allow foods such as certain breakfast cereals to obtain eligibility for a health claim on the basis of the milk that is added to the product before consumption. Believe foods should be assessed on eligibility for health claims on the basis of 'as purchased' and not 'as prepared'.
Parmalat	Industry – Australia	<ul style="list-style-type: none"> Support option 2 – with the specified conditions in draft Standard 1.2.7 for eligibility criteria being based on food as sold or as prepared/consumed.
Fonterra Co-Operative Group Limited	Industry – Australia & New Zealand	<ul style="list-style-type: none"> Endorses FSANZ's proposed approach, recognising that a claim should be based on the food as 'sold' to ensure consumers are not misled.
Food and Beverage Importers Association Supported by Unilever Australasia	Industry - Australia	<ul style="list-style-type: none"> Supports the proposed approach.

5. NUTRITION CONTENT CLAIMS - WHOLEGRAIN

Submitter	Group	Comments
ADECROON Food Tech Consulting	Industry – New Zealand	<ul style="list-style-type: none"> Agree with proposed approach.
Australian Food and Grocery Council (AFGC) Supported by Simplot and	Industry - Australia	<ul style="list-style-type: none"> Does not support wholegrains to be considered as biologically active substances. It is patently absurd and incorrect to define whole foods or whole ingredients as biologically active substances. Considers the sole reason for this is the reluctance of FSANZ to recognise the evidence that would permit wholegrains to have source and good source claims.

Submitter	Group	Comments
Unilever Australasia		<ul style="list-style-type: none"> • It would not make sense for the amount of biologically active substance to be declared in the nutrition information panel for products like brown rice. • Any mention of wholegrain would be considered a nutrition content claim, even when describing the food, e.g. wholegrain bread. • Regarding the definition of a property of a food, wholegrains are an ingredient, not a biologically active substance. • Wholegrain is interpreted as a characterising ingredient under standard 1.2.10. • There is no definition for biologically active substances in Codex although FSANZ states that the proposed approach is consistent internationally with Codex. • Recommends the proposal made by Go Grains (Go Grains Round Table discussion, Griffiths et al., 2006).
Cadbury Schweppes Pty Ltd	Industry - Australia	<ul style="list-style-type: none"> • Supports the proposed approach.
Choice – Australia	Consumer - Australia	<ul style="list-style-type: none"> • Does not support FSANZ approach since this will mean product containing as little as 10% wholegrains can make a claim. This would mean products with 10% and 50% wholegrains could be considered equally healthy by consumers. • Supports use of ‘source’ or ‘good source’ claims or a factual % wholegrain approach.
Coles Supermarkets	Industry – Australia	<ul style="list-style-type: none"> • Supports removal of specific criteria for wholegrains and regulation as a biologically active substance. • Suggests a definition for ‘wholegrain’ be included in the Standard or in a user guide for clarity.
Consumers’ Institute of New Zealand Incorporated (Belinda Allan)	Consumers – New Zealand	<ul style="list-style-type: none"> • Supports Option 2 as recommended by FSANZ
Department of Agriculture, Fisheries and Forestry (DAFF)	Government - Australia	<ul style="list-style-type: none"> • Believes that there is a risk that the proposal to regulate wholegrain claims as biologically active substance claims will undo good work that has been done by industry in marketing beneficial wholegrain products to consumers. • Table to Clause 11 provides very little information on how wholegrain content claims can be usefully made and does not contain a reference value for making these claims. • Further, it is considered that the definition for biologically active substances does not clearly articulate that wholegrain is covered by this definition and this will not be intuitive to many food businesses wishing to make wholegrain content claims. • Current wholegrain claims reflect national dietary guidelines and any changes that result in a reduction in, or weakening of, wholegrain claims are viewed by DAFF as inappropriate.
Department of Health and Human Services - Tasmania	Government - Australia	<ul style="list-style-type: none"> • Concerned regarding consideration of wholegrain as biologically active substances. Wholegrains are recommended in the dietary guidelines and it would appear that the lack of a suitable reference value will lead to industry determining the amount required in order to achieve a health effect for health claims. If general level health claims require probably level of evidence there is likely to be a range of levels in the market place, creating consumer confusion and increasing difficulties with enforcement.

Submitter	Group	Comments
Dietitians Association of Australia (Ms Kate Poyner)	Public Health - Australia	<ul style="list-style-type: none"> • Notes that the term ‘wholegrain’ has been removed in P293 draft standard 1.2.7 but if the option of providing conditions for ‘wholegrain’ as a content claim (e.g. ‘source of’, ‘good source of’) was available, the DAA would support the requirement for a minimum proportion of wholegrain ingredients. • Believes that providing conditions for ‘wholegrain’ for labelling purposes will help reduce confusion about the meaning of this and assist industry to develop and promote healthier grain-based foods. • Recommends that a content claim be permitted based on the daily intake target as proposed by industry bodies such as Go Grains and the US Wholegrains Council. • States that this could either be a percentage or on a per serve basis. Believe a daily target would provide a benchmark for public health recommendations, make information about wholegrains on food labels more meaningful and make it easier for consumers to choose wholegrains foods. • Suggest a possible target for this daily intake could be based on the recommendation put forward by Go Grains and the US wholegrains Council of 48 grams or more of wholegrains per day (http://www.wholegrainscouncil.org/WholeGrainStamp.html)
Fonterra Co-Operative Group Limited	Industry – Australia & New Zealand	<ul style="list-style-type: none"> • Supports FSANZ’s proposed approach and support consistency with CODEX wherever appropriate.
Food Technology Association of Victoria Inc (David Gill)	Industry - Australia	<ul style="list-style-type: none"> • Supports removing specific criteria for wholegrains from Standard 1.2.7 • Does not consider that wholegrains should be regulated a ‘biologically active substance’. Considers all food to be equally biologically active substances.
General Mills Australia Pty Ltd and General Mills New Zealand Ltd Cereal Partners Worldwide Nestlé	Industry – Trans Tasman	<ul style="list-style-type: none"> • Does not support the proposed changes; do not agree that wholegrain is a biologically active substance. • Wholegrains are a complete package of various nutrients and may contain biologically active substances. Biologically active substances are not considered as individual foods whereas wholegrains can be. • It would not make sense for the amount of biologically active substance to be declared in the nutrition information panel for products like brown rice. • Any mention of wholegrain would be considered a nutrition content claim, even when describing the food, e.g. wholegrain bread. • Currently wholegrain is interpreted as a characterising ingredient under standard 1.2.10. • There is no definition for biologically active substances in Codex although FSANZ states that the proposed approach is consistent internationally with Codex. • Defining wholegrains as a biologically active substance is incorrect due to the definition of a property of a food, which refers to energy, a nutrient, biologically active substance, ingredient or component. • Recommends a minimum of 8g wholegrain per serve for any claim. Consider that this would be the best approach to achieve a suitable outcome for consumers. • The Dietary Guidelines for Americans 2005 recommends that everyone eat at least half their grains as wholegrains. For adults this is three or more servings of wholegrains per day which equates to 48g of wholegrains per day for a health impact.

Submitter	Group	Comments
		<p>For a food to support a claim about the wholegrain content there would need to be a significant wholegrain contribution delivered in a serve of food.</p> <ul style="list-style-type: none"> • A general level health claim made about wholegrain foods will still require manufacturers to substantiate the amount of wholegrains that cause a health effect.
George Weston Foods Limited	Industry - Australia	<ul style="list-style-type: none"> • Does not support regulating wholegrains as biologically active substances as they do not fit the definition. • Supports the Go Grains position on wholegrains, whereby wholegrains are a whole food, similar to fruit and vegetables and should not be regulated as a ‘substance’. • Supports a minimum daily target intake for wholegrains of 48g and support the Go Grains recommendation that foods carrying wholegrain claims should: <ul style="list-style-type: none"> – State the daily target intake (DTI)(48g) – State the contribution the food makes towards the daily target (expressed in g/serve or %) – Consist of more than 10% wholegrain ingredients or contain more than 4.8 g/serve (10%DTI)
Go Grains Health and Nutrition Limited	Industry - Australia	<ul style="list-style-type: none"> • Supports removing specific criteria for wholegrains from the draft Standard but do not agree it is appropriate to regulate wholegrains as biologically active substances. • Recommends that a daily target intake (DTI) of 48g be established as the reference value for dietary intake for wholegrains in Australia. • Foods carrying a wholegrain claim should: <ul style="list-style-type: none"> – State the daily target intake (48g) – State the contribution the food makes towards the daily target (expressed in g/serve or %). – Consist of more than 10% wholegrain ingredients or contain more than 4.8 g/ wholegrains per serve (10% DTI). • ‘Presence’ type claims are made, but that descriptors not be used to indicate the level of the substance present. • Wholegrains do not satisfy the definition of ‘biologically active substances’ in Standard 1.2.7. They cannot be classified as ‘a substance’ but rather are complexes of BASs - and it is therefore inappropriate that they be regulated as BASs. • Recommends it is appropriate for wholegrains to be classified as whole foods rather than ‘substances’ and that claims in relation to wholegrains be self regulated through Go Grains (and ACCC). • Basis for the 48g target intake – agreed upon at an expert Round Table discussion (see Attachment 1 to submission for members) in March 2006. Based on available scientific evidence a level of intake of 2-3 serves of wholegrain foods provides significant risk reduction for CHD. In the US, one serve of 100% wholegrain bread contains 16g wholegrain. Three serves is thus 48g. • Basis for using g/serve or % - helps provides a level playing field across the wide variety of products that contribute to wholegrain intake, taking into account differences in moisture content, serve size and frequency of consumption. Criteria based on only g/serve or % will inappropriately advantage some food categories and disadvantage others: <ul style="list-style-type: none"> – % will disadvantage high moisture content foods such as bread (40% moisture, maximum of 575 wholegrain), compared to breakfast cereals (maximum of up to 99% wholegrain); – g/serve will limit claims for products with low serve weight or small serve size, e.g. rice cakes 100% wholegrain will qualify on % basis but not on g//serve basis;

Submitter	Group	Comments
		<ul style="list-style-type: none"> – agrees with dietary guidelines that encourage increased wholegrain consumption. For this to happen, consumers need help to identify wholegrain foods in the market place. There is little point in setting criteria that exclude legitimate wholegrain products from making claims. • Enforcement – the most appropriate way to enforce wholegrain claims is by formulation, as for characterising ingredients. Do not believe fibre is an appropriate means of enforcement. Using fibre as a marker of wholegrain can be problematic.
Kellogg (Aust) Pty Ltd	Industry - Australia	<ul style="list-style-type: none"> • Does not support the regulation of wholegrains using the same conditions as those applied to biologically active substances because: <ul style="list-style-type: none"> – Wholegrains are ingredients that contain biologically active substances – There is no recognised RDI or DI for this ingredient which could lead to confusion as manufacturers develop their own – Existing provisions exist for % labelling of characterising ingredients provide consumers about the wholegrain content of a food – It is inconsistent with approaches taken by other governments around the world; Australia is increasing the regulatory burden. Provides comparisons with requirements in the US (factual statements about the content are permitted), Canada (under review but looking at a similar approach to US), and the EU (wholegrain nutrition claims are not included in the Annex to the newly adopted European Regulation on Nutrition and Health Claims). • Recommends FSANZ contact the US, Health Canada and the European Commission to discuss their approach and rationale. Kellogg can provide a contact within each agency to facilitate and participate. • Approach internationally to treat wholegrain as an ingredient is consistent with the current approach in the Code to percentage labelling. If ‘with wholegrains’ etc is on a label, this would trigger percentage labelling and thus provide information for informed choice. • This claim would also be subject to fair trade legislation.
Kraft Foods Limited	Industry - Australia	<ul style="list-style-type: none"> • Supports the proposed approach, that wholegrains are regulated by the same conditions as for biologically active substances.
New Zealand Dietetic Association (Jan Milne)	Public Health – New Zealand	<ul style="list-style-type: none"> • Support FSANZ’s recommended approach
New Zealand Food and Grocery Council (NZFGC) Supported by Unilever Australasia	Industry – New Zealand	<ul style="list-style-type: none"> • Does not agree with proposed approach to regulate as biologically active substances. Wholegrains can be consumed as a separate food, therefore illogical to define them as a biologically active substance. • Wholegrains can contain many nutrients including biologically active substances. • Although FSANZ state defining wholegrains is consistent with Codex, there is no such definition for such substances in Codex.
New Zealand Ministry of Health (Cynthia Maling)	Government – New Zealand	<ul style="list-style-type: none"> • Supports Option 2 as recommended by FSANZ but question how this is possible when there is no reference value for the amount of the wholegrain substance to be consumed. • States that it would be extremely useful to have more information on biologically active substances, including a list of substances likely to be included.

Submitter	Group	Comments
Queensland Health	Government - Australia	<ul style="list-style-type: none"> • Supports option 2 – removing specific criteria for wholegrains and regulating them by the same conditions as biologically active substances. • However, express concern in regards to how the substantiated amount required to be consumed each day to achieve health benefits will be determined by industry. • Concern also expressed that the issue of biologically active substances has not been addressed – at present there are no officially recognised recommended or safe levels for biologically active substances. • Reiterate concern about how industry is going to determine a ‘per day reference’ amount. Since this issue overlaps with the policy development on the addition of substances other than vitamins and minerals, both issues should be considered together. In the meantime, these claims should not be allowed.
Sanitarium Australia/New Zealand	Industry – Australia/New Zealand	<ul style="list-style-type: none"> • Concerned there is no threshold for making wholegrain claims which could lead to abuse of the claim • Presence of at least 10% content via characterising ingredients or 10% of the recommended daily wholegrain consumption target should be met (US grains council and GoGrains recommend 48g per day) to allow a claim (note even 10% may be too low as only grain foods have the ability to provide wholegrain content) • Disagrees with approach to regulate wholegrains as biologically active substances as it will hamper ‘source’ or ‘good source’ criteria from ever being allowed in the standard • Suggests the following criteria: <ul style="list-style-type: none"> – ‘source’ of – 7.5g wholegrains (dry weight basis) per serve – ‘good source’ – 15g wholegrains (dry weight basis) per serve – ‘excellent source’ – 30g wholegrains (dry weight basis) per serve – for percentage based criteria: <ul style="list-style-type: none"> ○ ‘source’ of – 25% wholegrain of total weight of food ○ ‘good source’ – 50% wholegrain ○ ‘excellent source’ – 75% wholegrain • States these figures based on those used in several studies (references provided)
The New Zealand Food Safety Authority (Carole Inkster)	Government - New Zealand	<ul style="list-style-type: none"> • Supports Option 2 as recommended by FSANZ
The Public Health Association of Australia (Kemmett)	Public Health - Australia	<ul style="list-style-type: none"> • Agrees with the Cancer Council and does not support the option for regulating wholegrain claims in the same manner as for biologically active substances. • Strong concerns about the proposed regulation of claims around biologically active substances. The three main issues of concern are that: <ul style="list-style-type: none"> – Food manufacturers may be able to set the levels for what is an effective daily amount – Claims for biologically active substances are based on the food containing a minimum of 10 percent of the manufacturer nominated amount – There are no disqualifying criteria for nutrition content claims related to biologically active substances.

Submitter	Group	Comments
		<ul style="list-style-type: none"> • Comments that it is particularly concerning that food manufacturers may be able to set the levels for what is an effective daily amount. Although content claims for biologically active substances would only be ‘source of’ type claims, believes there is a high risk of misleading consumers. For example tinned tomatoes could be labelled as a source of lycopenes or ‘this food contains lycopenes’. Certain groups of the population, such as men with prostate cancer, could be misled into attributing a health benefit to such a claim. • Comments: ‘FSANZ has stated that claims involving biologically active substances must state the amount of the substance that provides the health effect. This is a concern as for many biologically active substances there is no evidence for what is an effective level for achieving a health effect. The current proposal even states that the food manufacturers themselves can determine the effective level’. • Recommends that FSANZ should substantiate what is an effective level of the biologically active substances, rather than food manufacturers. Understand the difficulty of setting a reference value when none exists (or in the case of wholegrains has been rejected), but believes it cannot be up to the food industry to determine the substantiated amount that is required to be consumed each day in order to achieve any specific health effect. • Comments: ‘most consumers are unlikely to regularly consume foods containing biologically active substances. Allowing manufacturers to establish appropriate amounts and then make a claim on a product that contains as little as 10 percent of that efficacious amount may result in consumers never eating or drinking enough of that substance to have the effect claimed or implied on the label or in advertising’. • Recommends that FSANZ undertake some dietary modelling to assess what is an efficacious level for biologically active substances to be achieved in the diet. • Suggests that there should be generic disqualifying criteria applied to any nutrition content claims related to biologically active substances and wholegrains, i.e. foods high in saturated fat, added sugar or sodium, not just general level claims.
Unilever Australasia	Industry – Trans Tasman	<ul style="list-style-type: none"> • Objects to wholegrain claims being considered as a biologically active substance. See AFGC submission for further detail.
Private (Jack Ward)	Consumer - Australia	<ul style="list-style-type: none"> • Supports Option 1
<p>The National Heart Foundation of Australia (Anne-Marie Mackintosh)</p> <p>Supported by The National Heart Foundation of New Zealand (Anna Malon)</p>	Public Health - Australia	<ul style="list-style-type: none"> • If the option of providing conditions for ‘wholegrain’ as a content claim was available, the requirement for a minimum proportion of wholegrain ingredients would be supported. • Believes this will help reduce confusion about the meaning of this and similar terms and assist industry to develop and promote healthier grain-based foods. • Believes a daily target would provide a benchmark for public health recommendations, make information about wholegrains on food labels more meaningful to consumers and health professionals, and make it easier for consumers to choose wholegrain foods. • Suggests a possible target for this daily intake could be based on the recommendation put forward by Go Grains and the US Grains Council of 48 grams of wholegrains per day but requires further consideration. Suggest this could target could either be a percentage or on a per serve basis.

Submitter	Group	Comments
		<ul style="list-style-type: none"> Comments: ‘Studies suggest that a wholegrain fibre intake of at least 6 g/day may contribute significantly to a lowering of CVD risk. In food items this recommendation is equal to an intake of at least 100 grams of wholegrain bread or its equivalent’ (1). <p>(1) The National Heart Foundation of New Zealand. Evidence Based Position Statement on Carbohydrate and Dietary Fibre. March 1999.</p>
<p>The Cancer Council Australia (Kathy Chapman, Sarah Mackay, Terry Slevin)</p> <p>Supported by the Cancer Council Western Australia</p>	Public Health - Australia	<ul style="list-style-type: none"> Does not support the option for regulating wholegrain claims in the same manner as for biologically active substances, as proposed by FSANZ. Strong concerns about the proposed regulation of claims around biologically active substances. The three main issues of concern are that: <ol style="list-style-type: none"> Food manufacturers may be able to set the levels for what is an effective daily amount; Claims for biologically active substances are based on the food containing a minimum of 10 percent of the manufacturer nominated amount; and There are no disqualifying criteria for nutrition content claims related to biologically active substances. Believes that FSANZ should substantiate what is an effective level of the biologically active substances, rather than the manufacturers. Recommends that FSANZ undertake some dietary modelling to assess what is an efficacious level for biologically active substances to be achieved in the diet. Believes the amounts of biologically active substances that must be present in order to make a claim should also be considered in relation to the individual substance and the extent to which it is present in the food supply. Suggests that there should be generic disqualifying criteria applied to any nutrition content claims related to biologically active substances and wholegrains.

6. NUTRITION CONTENT CLAIMS

6.1 Saturated and trans fatty acid claims

Submitter	Group	Comments
ADECRON Food Tech Consulting	Industry – New Zealand	<ul style="list-style-type: none"> Agree with putting limits on saturated fats in relation to trans fat claims.
Cadbury Schweppes Pty Ltd	Industry - Australia	<ul style="list-style-type: none"> Do not support proposed approach. Is not consistent to permit voluntary declaration of trans fatty acids in the nutrition information panel, as the same permission does not apply to other nutrients. Point out that the criteria for a ‘free trans fatty acid’ claim are that the food contains no more saturated and trans fatty acids than 0.75 g/100 mL or 1.5 g/100 g. This is in conflict with the rejection by FSANZ of the threshold for ‘sugar free’ in CoPoNC.

Submitter	Group	Comments
Campbell Arnott's Asia Pacific	Industry - Australia	<ul style="list-style-type: none"> • Recommends that a low trans fatty acid claim be permitted providing it meets the criteria for a low saturated and low trans fatty acid claim. • Recommends the inclusion of the following conditions for use of a 'low trans fatty acids' nutrition content claim: • <i>The food contains:</i> <ul style="list-style-type: none"> - <i>as a proportion of the total fatty acids content, no more than 28% saturated fatty acids and trans fatty acids; or</i> - <i>no more saturated fatty acids and trans fatty acids than 0.75 g per 100 g for liquid food; or</i> - <i>no more saturated fatty acids and trans fatty acids than 1.5 g per 100 g for solid food.</i> • Consumers need to have consistency in the descriptors presented to assist in making informed choices about their diet. The proposed standard seeks to restrict the use of the descriptor 'low' in relation to trans fat while allowing descriptors of 'free' and 'Reduced'. This is inconsistent with other fats when relevant criteria are met. • Eliminating the opportunity to use descriptors only in some instances will lead to confusion and reduce the opportunity to clearly inform consumers of relative levels of the trans fatty acid content of foods.
Choice – Australia	Consumer - Australia	<ul style="list-style-type: none"> • Supports FSANZ approach except considers there should be a mandatory requirement for declaring trans fatty acids in the nutrition information panel to enable consumers to make an informed choice.
Coles Supermarkets	Industry – Australia	<ul style="list-style-type: none"> • Supports option 1 by default (trans and saturated fatty acids in the conditions for low and reduced saturated fat claims, no conditions for trans fat claims, no conditions for 'free' in saturated fat claims). • Suggests FSANZ has not fully considered: <ul style="list-style-type: none"> - the difference in trans fatty acids, formed in the hydrogenation of vegetable oils and naturally occurring trans fatty acids; - emerging scientific evidence which highlights that naturally occurring trans fatty acids may have bioactive properties and beneficial health effects which could be desirable to communicate to consumers; - a regulatory definition for trans fatty acids that defines and differentiates naturally occurring trans fatty acids from hydrogenated vegetable fats ; - that Australian and New Zealand populations have a low dietary intake of trans fatty acids – Australians obtain only 0.6% of their daily kilojoules from trans fatty acids, lower than global recommendations of 1% and well below global intakes; - dietary trans fats play a relatively small part in risk for heart disease, a focus on trans fats distracts consumers from other major preventable causes of heart disease: smoking; high blood pressure & following a healthy plan with regular physical activity; - the food industry has actively moved to reduce trans fatty acids (and saturated fats) from the food supply, such as The National Collaboration on Trans Fats; Nestle announcing a global program to reduce trans fatty acids; the fast food industry round table on reduction of trans fatty acids; thus regulatory intervention is unnecessary and does not adhere to the principles of minimum effective regulation. • Supports voluntary declaration of trans fatty acids in the NIP, which would constitute a nutrition content claim and declaration of mono and poly-unsaturated fatty acids. • The information on page 51 of the PFAR should be included in the user guide for clarity.

Submitter	Group	Comments
Confectionery Manufacturers of Australasia (CMA) New South Wales Branch. Victorian Branch, South Australian Branch, Queensland Branch, NZ Branch International Confectionery Association	Industry – Australia	<ul style="list-style-type: none"> • Points out that the criteria for a ‘free trans fatty acid’ claim are that the food contains no more saturated and trans fatty acids than 0.75 g/100 mL or 1.5 g/100 g. • This is in conflict with the rejection by FSANZ of the threshold for ‘sugar free’ in CoPoNC. • Questions why trans fatty acid free claims have permission for some tolerance level and if the requirements are not absolute, why should sugar free and fat free claims be required to meet absolute values? • This is inconsistent with FSANZ position on sugar free and fat free claims and needs to be clarified.
Dairy Australia	Industry - Australia	<ul style="list-style-type: none"> • Strongly supports not mandating labelling for trans fatty acids (TFAs) and support FSANZ’s approach of voluntary declaration of TFAs in the nutrition information panel. • However, Dairy Australia would like to highlight that there the substantial differences in the structural composition and functional properties between industrially produced and naturally occurring TFAs and this should be reflected in the definition of TFAs used for labelling and claims purposes. • Recommends that FSANZ review the definition of TFA in the Code, which would apply to the proposed standard.
Dairy Australia	Industry - Australia	<p>Structural differences between industrially-produced and naturally occurring TFAs</p> <ul style="list-style-type: none"> • Although industrially-produced TFAs and ruminant fat have many trans-18:1 isomers in common, their distribution is vastly different. • Industrially-produced TFAs are composed of a wide range of TFAs, the main trans isomers being elaidic acid and octadenoic acid. Industrially produced TFAs do not contain CLA. • In contrast, the major TFA in milk fat is vaccenic acid (trans-11, C18:1) which accounts for 50% or more of the total trans 18:1 isomers. Conjugated linoleic acids (CLAs) are another major form of TFA in milk fat and represent about one-quarter of the total ruminant TFAs, with around 90% represented by rumenic acid. Importantly, the body converts about 20% of vaccenic acid to rumenic acid. • These structural differences are important as the position of the trans-double bond in a fatty acid is known to influence its physical, chemical and biological effects.
Dairy Australia	Industry - Australia	<p>Physiological differences between industrially produced and naturally occurring TFAs</p> <ul style="list-style-type: none"> • In light of the structural differences between industrially produced and naturally occurring TFAs, it is to be expected that they have different physiological effects. • Research demonstrates that this is the case - while the major industrially produced TFAs appear to be detrimental to cardiovascular health, there is evidence to suggest that TFAs from a dairy food source do not have the same effect. Furthermore there is evidence showing beneficial effects of ruminant TFAs. For example, CLA may have anti-carcinogenic health effects.

Submitter	Group	Comments
		<ul style="list-style-type: none"> • The Preliminary Final Assessment Report includes a summary of the evidence that all dietary TFAs are associated with increased CVD risk (p. 48). However Dairy Australia would like to highlight that the metabolic studies leading to this conclusion were conducted using industrially produced TFAs, which differ substantially from TFAs naturally occurring in ruminant animals. The meta-analysis of 60 trials often cited to demonstrate that TFA are detrimental to CVD (Mensink et al., 2003) included only trans fatty acids from hydrogenated vegetable fats (Lock et al., 2005). • The studies below also provide evidence to support the view that naturally occurring TFA do not have the same detrimental effect as industrially produced TFA: <ul style="list-style-type: none"> – Analysis of the Nurses Health Study demonstrated that increased coronary heart disease risk was only associated with trans fatty acids from hydrogenated vegetable fats in spreads, cakes and biscuits (Willett, 1993). There was no association found with the trans fatty acids in meat and dairy products (Willett, 1993). – Other studies have obtained similar findings (e.g. Pietinen et al., 1997 and Ascherio et al., 1994). – A review of human studies indicates that dietary CLA at levels of 1.4 to 6.8 g/day had no major effect on serum total, LDL- and HDL cholesterol levels (Terpstra, 2004). – Tricon et al. (2004) reported the first human study to compare the effect of rumenic acid and trans-10, cis-12-18:2 on blood lipids. They found that the two isomers had divergent effects. Although Trans-10, cis-12-18:2 increased serum LDL:HDL cholesterol, total:HDL cholesterol and triglycerides levels, rumenic acid decreased them. – Desroches et al. (2005) compared an experimental diet containing enhanced rumenic acid/vaccenic acid dairy products (2.2g RA; 4.7g trans-18:1) with a control diet (0.2g RA; 0.7g trans-18:1). The 10-fold increase in dairy derived TFAs produced no adverse effect in serum lipid profiles of overweight men. – Tricon et al. (2006) fed healthy middle-aged men dairy products that supplied 0.15 g/day rumenic acid (0.31 g/day trans-18:1) as a control diet and a test diet containing 1.42 g/day rumenic acid (4.69 g/day trans-18:1) from dairy products. The test diet had little effect on serum lipid levels and in addition had no significant effect on LDL particle size or susceptibility to LDL oxidation. • When considering the results of trials using CLA supplements, it is important that pure isomers are used, not mixed isomers. This is because the cis-9, trans 11 CLA isomer (rumenic acid) has different effects to the trans-10, cis-12 CLA isomer. • There is a body of emerging scientific evidence which shows rumenic acid and vaccenic acid have anti-cancer potential, especially for breast cancer (Ip et al., 2003, 2007; Parodi, 2004, 2006; Bauman et al., 2006). • Dairy Australia will continue to communicate the evidence to FSANZ, health professionals and other relevant organisations to highlight that dairy TFAs do not have the same adverse health effects as industrially produced TFAs, and indeed may have beneficial health effects.

Submitter	Group	Comments
Dairy Australia	Industry - Australia	<ul style="list-style-type: none"> • Does not agree with either Option proposed as they do not recognise the differences of ruminant sources and industrially produced sources of TFAs. • Concerned that the Preliminary Final Assessment Report compares claims able to be made in Canada and the US (p.49), yet fails to note that in these countries' legislation, CLA is excluded from the TFA definition. The Code definition of TFA, which includes CLA, is outdated and not consistent with scientific consensus. It is the only definition, internationally, that does not exclude CLA. For example, the Canadian definition of a trans fatty acid is 'any unsaturated fatty acid that contains one or more isolated or non-conjugated double bonds in a trans configuration' (www.inspection.gc.ca/english/fssa/labeti/inform/20050914e.shtmL), and the US definition is similar www.cfsan.fda.gov/~dms/lab-cat.html). The Danish definition of TFAs totally excludes all sources of ruminant TFAs. This is based on a thorough review of the available scientific evidence (Danish Ministry of Food Agriculture and Fisheries, 2003). • Recommends that the definition for TFAs excludes CLA in order to be consistent with Codex and international regulations. The definition for TFAs, defined in the Codex Guidelines on Nutrition Labelling is 'all the geometrical isomers of monounsaturated and polyunsaturated fatty acids having non-conjugated, interrupted by at least one methylene group, carbon-carbon double bonds in the trans configuration'. • Recommends that the definition of trans used in determining eligibility to make claims does not include naturally occurring ruminant trans fatty acids, only industrially produced trans from partially hydrogenated vegetable oils. This should extend to all trans claims criteria, therefore to low and reduced saturated fat, cholesterol and trans claims. • Agrees that there should be no mandatory labelling of trans fatty acids. • Proposes that: <ul style="list-style-type: none"> – there is a need for urgent review of the definition of 'trans fatty acids' to bring it in line with international definitions. – saturated fat free and trans fat free claims be allowed with clinically insignificant amount of saturated and trans fatty acids. These could be based on international definitions or extrapolated from 0.15g dairy fat per 100g, using recent data on dairy fat component from Dairy Australia. (<0.15g fat per 100g being the condition for a fat free claim under the Code of Practice for Nutrient claims). • Dairy Farmers supports no mandatory labelling of TFA. However it is believed that both options proposed by FSANZ unfairly disadvantage dairy unless the definition of trans fat is reviewed to bring it in line with international definitions: <ul style="list-style-type: none"> – Nutritionally it makes sense for many manufactured goods to consider saturated fat and TFA together. However natural trans fats in dairy and meat may have a different impact than manufactured trans fats (1,2) so the definition of trans fats used in Australian and New Zealand food standards requires review to bring it in line with many overseas definitions which do not include dairy trans fats or conjugated linoleic acid (CLA). The recent FSANZ trans fat review (3) acknowledges that the concerns about the potential health effects of TFA is 'particularly those that are manufactured', and that 'different CLA isomers have distinct properties', although concluding a lack of definitive evidence to support different health effects.

Submitter	Group	Comments
		<ul style="list-style-type: none"> – Given that Australian intake of trans fat is low compared to other countries and standards (3), it is not appropriate that consumers restrict dairy on the basis of natural trans intake. Concern has been expressed that consumers will do so to the detriment of nutrient intake. The North American Institute of Medicine cautioned against trying to eliminate TFA from diets by avoiding meat and dairy foods because this would have undesirable effects on other dietary components (3). This has previously been highlighted in Australia as a risk of mandatory labelling by the Dietitians Association of Australia (4). <i>(refer to submission for references)</i> • Concerned that the conditions for the descriptor of ‘free’ listed for saturated fatty acids and trans fatty acids in this current proposal (table to clause 11) are incomplete i.e. there is no stipulation that a saturated fat free product has to be free of saturated fats only free of trans. • These conditions are further confusing given that there is no definition of ‘free’. If ‘free’ claims default to fair trade requirements rather than clinical significance, this has the impact of supporting labelling of manufactured rather than natural foods. A dairy product however low in fat is not able to be totally trans free or saturated fat free. • These concerns are in line with our concerns that the lack of criteria for fat free or no fat claims discriminates against natural foods such as dairy and fruit while allowing these claims on manufactured sugar based products, like confectionery. Other international labelling requirements such as CODEX recognise clinical significance rather than absolute zero.
Department of Health and Human Services - Tasmania	Government - Australia	<ul style="list-style-type: none"> • Supports consideration of trans and saturated fatty acids together in the conditions for low and reduced saturated fatty acid claims; and also for low and reduced saturated fatty acid and trans fatty acid (combined) claims. • Supports prohibition of ‘% trans fatty acids free’. • Supports prohibition of ‘low trans fatty acids’. • Supports reduced trans fatty acids where trans is 25% lower than reference food if the food also qualifies for a reduced saturated fat claim. Concerned that criteria for reduced trans fatty acids may lead to foods high in saturated fatty acids being eligible for a claim even though there is no increase in saturated fat. • Supports free in trans fatty acid if food qualifies for low saturated fat claim and meets fair trading legislation for free of trans fatty acids. • Recognises that this will limit the foods that can make a trans fatty acid claim, but feels that this risk management strategy is warranted given the public confusion over the role of trans fatty acids in the diet in comparison to saturated fats. The proposed conditions effectively limit these claims to lower fat foods which means only low fat foods, and not those with higher levels of unsaturated fats such as oils, dressings, nuts and seeds, margarines would be able to make content claims or an approved high level health claim relating to ‘type of fat’ to blood cholesterol levels. • Believes the public health messages of the ratio of unsaturated fats to saturated is of value, but total saturated fat still needs to be reduced and many people are unaware that fats with higher levels of unsaturated fats still contain saturated fats.

Submitter	Group	Comments
Fonterra Co-Operative Group Limited	Industry – Australia & New Zealand	<p>Endorses FSANZ’s proposed approach with some suggestions:</p> <ul style="list-style-type: none"> • Suggests there should be further refinements to better reflect the distinction between manufactured and naturally occurring trans fatty acids. Specifically, recommends that FSANZ review the definition of trans fatty acids and amend it to be that of CODEX (which excludes conjugated linoleic acid, which is found in dairy). Provides scientific references suggesting that naturally occurring dairy trans fatty acids may be important for the bioactive properties of dairy, and conjugated linoleic acid and may have beneficial health effects. • Strongly supports voluntary declaration of trans fatty acids in the NIP – research indicates Australia and New Zealand populations have a low intake of dietary trans fatty acids, and also notes that science indicates that artificial trans fatty acids may have different health effects from ruminant trans fatty acids (which may have beneficial health effects) • Believes it would be appropriate to stipulate requirements for ‘fat free’ and ‘no fat’ claims within Standard 1.2.7. Notes that these claims are presently made by many dairy companies according to CoPoNC provisions. Considers that it is the amount of fatty acids rather than no fatty acids that is of public health concern. Suggests that FSANZ retain the ‘free’ fat classification based on the current CoPoNC provisions.
Food and Beverage Importers Association Supported by Unilever Australasia	Industry - Australia	<ul style="list-style-type: none"> • Supports voluntary (not mandatory) declaration of trans fatty acids in the nutrition information panel.
Food Technology Association of Victoria Inc (David Gill)	Industry – Australia	<ul style="list-style-type: none"> • Prefers option 2 • States that the condition in the Table to clause 11 in the draft Standard should be simplified • Has particular issue with the use of ‘free Trans fatty acids’ and the subsequent related claims
General Mills Australia Pty Ltd and General Mills New Zealand Ltd Nestlé Cereal Partners Worldwide	Industry – Trans Tasman	<ul style="list-style-type: none"> • Note that one of the conditions for the saturated fatty acid free claim is that the food is to be free of trans fatty acids. Other free claims also include conditions - gluten and lactose state that there is no detectable gluten or lactose. Consistent wording is necessary for this claim also. • Should the saturated fatty acid free claim and the trans fatty acid free criteria also state that there is no detectable saturated fatty acid or no detectable trans fatty acid respectively.
Kraft Foods Limited	Industry - Australia	<ul style="list-style-type: none"> • Supports the proposed approach. This supports current understanding of the health issues with saturated and trans fats.
Murray Goulburn Co-operative	Industry – Australia	<ul style="list-style-type: none"> • Strongly recommends that the definition of ‘trans fatty acids’ in Standard 1.2.8 is inappropriate and should be reconsidered to reflect current scientific knowledge and international regulations. • The definition should exclude all sources of ruminant trans fatty acids. • Recommends that a nutrition content claim for ‘low trans fatty acids’ should be permitted based on the line of the National Heart Foundation of Australia guidelines, whereby no more than 1% of total fatty acids can be trans fatty acids in relevant categories of foods. Permitting such a claim will encourage food manufacturers to move away from partially hydrogenated oils.

Submitter	Group	Comments
		<ul style="list-style-type: none"> • As saturated fatty acids are also considered a negative, a further condition of use could be included so that the food must also be low in saturated fat based on the amended conditions of use. A proposed definition for ‘low trans fatty acids’ claim could be: <ul style="list-style-type: none"> (a) The food contains no more trans fatty acid than 1 per cent of the total fatty acid content of the food; and (b) The food contains no more saturated and trans fatty acids than – <ul style="list-style-type: none"> (i) 0.75 g per 100 mL for liquid food; or (ii) 1.5 g per 100 g for solid food; OR (iii) 28 per cent of the total fatty acid content of the food.
New South Wales Food Authority	Government - Australia	<ul style="list-style-type: none"> • Strongly objects to the conditions for allowing ‘reduced trans fatty acids’ claims on foods, namely that a food can make claims based on ‘reduced’ trans fatty acid content without any corresponding decline in saturated fatty acid content. This is an inconsistent message for consumers as both trans and saturated fatty acids are considered by nutritionists as harmful to human health. • Further notes that conditions for allow ‘free’ trans fatty acid claims require a food to be also ‘low’ in saturated fatty acids, and queries why a similar situation does not apply to ‘reduced’ trans fatty acid claims. • Suggests that reliance on fair trading laws for claims such as ‘saturated fatty acids-free’ claims will create confusion for both industry, consumers and regulators. The issues appear as follows: <ul style="list-style-type: none"> – Standard 1.2.7 is inconsistent in that it regulates nutrients such as lactose and gluten as ‘free’ but not others. – Standard 1.2.7 requires ‘saturated fatty acids-free’ claims to be free of trans fatty acids, but is silent on saturated fatty acids. – Standard 1.2.7 requires ‘saturated fatty acids-free’ claims to be free of trans fatty acids, but is silent on ‘trans fatty acids-free’ claims with respect to trans fatty acid content. • Standard 1.2.7 must be capable of being readily understood by all levels of industry; being silent on ‘free’ claims will create confusion. Furthermore, reliance on fair trading laws implies engagement by fair trading agencies. Reliance on multiple agencies is not a rational approach to regulating nutrition content claims or food labelling generally. In practice false descriptions on foods will more likely be handled by food authorities using the false descriptions provisions under the Model Food provisions. • Suggests Standard 1.2.7 be amended to include ‘for example’ in the Table to clause 11 opposite the entry Trans fatty acids in column 1, and ‘free’ in column 2, in column 3 the words ‘the food must be free of trans fatty acids’. The standard will then be clearer to industry, and jurisdictions can then rely on false description provisions under their Food Acts for enforcement.
New Zealand Dietetic Association (Jan Milne)	Public Health – New Zealand	<ul style="list-style-type: none"> • Supports FSANZ’s recommended approach

Submitter	Group	Comments
New Zealand Food and Grocery Council (NZFGC) Supported by Unilever Australasia	Industry – New Zealand	<ul style="list-style-type: none"> • Notes it is a sensible approach that saturated and trans fatty acids claims not be treated in isolation. • The definition of trans fatty acid must be reviewed to take account of the difference between naturally occurring ruminant and industrially produced trans fatty acids.
Parmalat	Industry – Australia	<ul style="list-style-type: none"> • Acknowledges benefit in assigning conditions relevant to both trans and saturated fatty acids whereby claims related to one type of fatty acid has restrictions placed on the other. • Would support option 2 covering the conditions for both reduced/low saturated and trans fatty acid claims. • Notes that the conditions for a free claim are silent in relation to the levels of saturated and trans fat appropriate for a free claim, and will therefore be left to ACCC interpretation, • This is inconsistent in relation to free claims for gluten and lactose. Believe that regulation should be consistently applied across all nutrition content claims and take into account the fact that detection limits for these nutrients are progressively becoming more sensitive. • Assignment of limits as qualifying criteria for ‘free claims’ where nutrients are at a level where they contribute no health or nutritional effect should continue to be explored by FSANZ. • Supports provision for voluntary declaration of trans fatty acids in the nutrition information panel. • Recommends that the definition of trans fatty acid currently in the Code be reviewed, considering the definition provided by Codex.
Queensland Health	Government - Australia	<ul style="list-style-type: none"> • Supports option 2.
Unilever Australasia	Industry – Trans Tasman	<ul style="list-style-type: none"> • The qualifying criteria make this claim (low) only applicable to products that have a relatively low fat content. • The conditions are not appropriate for foods with a significant fat content, the very foods that consumers need guidance on. • The conditions are inconsistent with other fatty acid claims and because of this inconsistency does not promote consumer understanding or informed choice. Fats and oils do not meet the conditions for a ‘low’ claim. • Notes these conditions are used as the basis for giving dietary advice and for making the high level health claim about saturated and trans fatty acids and cholesterol, but none of the products recommended in the Dietary Guidelines for Australians (unsaturated vegetable oils, margarines and salad creams and dressings) and the Heart Foundation recommendations (margarine spreads and oils etc) would qualify for this claim. • Surely increasing the incidence of inconsistent dietary advice between different bodies is not the desired result of setting up a framework for substantiated health claims. • Strongly disagree with the condition for a trans free claim, as outlined above – the criteria are not suitable for foods with significant fat content. • To quote directly from the recent media statement released after the May Ministerial Council meeting:

Submitter	Group	Comments
		<ul style="list-style-type: none"> - Ministers noted that the contributions of trans fatty acids to energy intakes of Australians and New Zealanders was below the goal of 1% proposed by the World Health Organisation, and comparable to or lower than intake estimates from some countries overseas. - Ministers noted the findings of the Review that immediate regulatory intervention is not required and that non-regulatory measures to further reducing the levels of trans fatty acids in the Australian and New Zealand food supply would be the most appropriate action. • Notes that industry have worked proactively to reduce trans fatty acids in foods. The proposed restrictions mean that manufacturers won't be able to make reference to changes they have made to eliminate trans fatty acids from foods with significant fat content. This may reduce industry incentive to continue to reduce trans fatty acids. • FSANZ statement that trans fatty acids can be voluntarily declared in the nutrition information panel is incorrect. This could only be permitted when the food meets the conditions for a nutrition content claim.
Australian Medical Association (Dr Margaret Chirgwin)	Other - Australia	<ul style="list-style-type: none"> • Does not support either of the proposed options and advocate for the claims in relation to saturated fatty acids and trans fatty acids to be considered separately. • Comments that consumers who wish to distinguish between the two types of fat should not be hindered by the fear that because a choice is made to reduce intake of one type of fat, that another will be increased.
Consumers' Institute of New Zealand Incorporated (Belinda Allan)	Consumers – New Zealand	<ul style="list-style-type: none"> • Supports Option 2 but would like the option amended to require the mandatory declaration of trans fatty acids in the NIP.
Dietitians Association of Australia (Ms Kate Poyner)	Public Health - Australia	<ul style="list-style-type: none"> • Pleased that saturated fatty acids and trans fatty acids are considered together and recommends this across all potential claims in relation to saturated and/or trans fatty acids. • Pleased that claims regarding 'low' trans fatty acids in isolation will be prohibited. • Does not support FSANZ preferred option that prescribes the conditions for 'low' saturated fatty acids and 'low' saturated fatty acids and trans fatty acids' in relation to the defined absolute values of <1.5 g in total saturated fatty acids and trans fatty acids /100 g of solids and <0.75 g in total saturated fatty acids and trans fatty acids /100 mL of liquids. States that the proposed conditions effectively limit these claims to low fat foods. Those with higher levels of unsaturated fats - such as oils, dressings, nuts and seeds or margarines - would not be able to make a content claims or an approved high level health claim relating to consumption of 'type of fat' and blood cholesterol levels. • Concerned that consumers who understand that low saturated fat diets are needed to reduce cholesterol levels may be confused when information relating to low saturated fat intakes is not permitted to appear in association with these good sources of unsaturated oils. Recent food modelling research considered the adequacy of fatty acid, vitamin D and vitamin E intakes [B Shrapnel, K Baghurst. Adequacy of essential fatty acid, vitamin D and vitamin E intake: Implications for the 'core' and 'extras' food group concept of the Australian Guide to Healthy Eating'. Nutr Diet 2007;64:78-85.(in press)] possible if the Australian Guide to Healthy Eating is followed and found that the intake of these nutrients may be problematic when the core and extras food group model is used. • Recommends that there should be two alternative definitions (manufacturer to choose), based on an 'absolute' low level or a 'relatively' low level. The recommended conditions be either:

Submitter	Group	Comments
		<ul style="list-style-type: none"> • of <1.5g in total saturated fatty acids and trans fatty acids /100 g of solids and <0.75 g in total saturated fatty acids and trans fatty acids /100 mL of liquids or • saturated and trans fatty acid content of 28% or total fats or less. • States that this would accommodate foods with either an absolutely low level of saturated fat, or a relatively low level of saturated fat in a high unsaturated fat food and supports the notion that the ratio of saturated to unsaturated fatty acids is more important than a reduction in saturated fatty acids alone
New Zealand Ministry of Health (Cynthia Maling)	Government – New Zealand	<ul style="list-style-type: none"> • Supports Option 2 as recommended by FSANZ
Private (Jack Ward)	Consumer - Australia	<ul style="list-style-type: none"> • Notes that content claim conditions for trans fatty acid free and saturated fatty acid free do not include ‘free from trans fatty acids’ or ‘free from saturated fatty acids’ • Supports Option 2 as recommended by FSANZ
The Cancer Council Australia (Kathy Chapman, Sarah Mackay, Terry Slevin) Supported by the Cancer Council Western Australia	Public Health - Australia	<ul style="list-style-type: none"> • Supports Option 2 as recommended by FSANZ
The New Zealand Food Safety Authority (Carole Inkster)	Government - New Zealand	<ul style="list-style-type: none"> • Supports Option 2 as recommended by FSANZ
The Omega-3 Centre (Wendy Morgan)	Public Health – Australia and New Zealand	<ul style="list-style-type: none"> • Recommends that the conditions of use for a ‘low saturated fat’ nutrition content claim, relevant also to related general level and high level health claims, include <i>either</i> the absolute quantity of saturated fatty acids (relevant to low fat foods) as proposed <i>or</i> the proportion of saturated fatty acids to unsaturated fatty acids (relevant to foods with a ‘desirable’ fat profile). • Comments: ‘fats in foods are always combinations of polyunsaturated, monounsaturated and saturated fatty acids and it is the <i>proportion</i> of these different fatty acids which affects their physiological activity. Scientific evidence supports a <i>proportional</i> criterion for assessing the physiological effects of varying amounts of saturated fatty acids (NHF, 1999)’. • States that FSANZ has previously used proportional amounts of fatty acids for conditions of use of Omega-3 content claims. • Recommends that in the Table to Clause 11, the nutrition content claim for <i>low in saturated fats</i> be modified to: • (a) <i>the food contains</i> <ul style="list-style-type: none"> (i) <i>as a proportion of the total fatty acids content, no more than 28% saturated fatty acids and trans fatty acids;</i> or (ii) <i>no more saturated fatty acids and trans fatty acids than 0.75 g per 100 g for liquid food; or</i> (iii) <i>no more saturated fatty acids and trans fatty acids than 1.5 g per 100 g for solid food.</i>

Submitter	Group	Comments
The National Heart Foundation of Australia (Anne-Marie Mackintosh)	Public Health - Australia	<ul style="list-style-type: none"> • Partly supports option 2 • Supports that trans and saturated fatty acid be considered together in ‘low’ and ‘reduced’ claims • Pleased that claims regarding ‘low’ trans fatty acids in isolation will be prohibited. • Do not support voluntary declaration of trans fatty acids in the nutrition information panel, unless a claim is made. • Strongly recommends that declaration of trans fatty acids in nutrition information panels be mandatory given its adverse effect on the risk of developing cardiovascular disease. • Opposes FSANZ preferred option that prescribes the conditions for ‘low’ saturated fatty acids and ‘low’ saturated fatty acids and trans fatty acids. Comments that the proposed conditions effectively limit these claims to low fat foods which then means only low fat foods, and not those with higher levels of unsaturated fats such as oils, dressings, nuts and seeds, margarines would be able to make health claims. • Has undertaken dietary modelling which demonstrates that the recommendations for achieving optimum balance of fatty acids in the diet are difficult to achieve without an increase in the use of foods high in the unsaturated fats such as oils, margarines, salad dressings made using unsaturated oils, and nuts. • Comments: ‘the use of the high level health claims related to saturated fat and cholesterol-lowering will not be able to be used in association with these types of foods, which in practice are probably the most useful food sources for achieving the desired shift in unsaturated and to saturated fat intakes. • States: ‘new food modelling research considering the adequacy of fatty acid, vitamin D and vitamin E intakes possible if the Australian Guide to Healthy Eating is followed and found that the intake of these nutrients may be problematic when the core and extras food group model is used. Greater focus on foods rich in polyunsaturated fats such as polyunsaturated margarines, sunflower oil, walnuts and sunflower seeds, and higher intake of them would be required (2). • Comments: ‘recent research (1) in the area of achieving the Dietary Guidelines for Australians of 6-8% polyunsaturated fats and the Heart Foundation’s recommendation of higher intakes of 8-10%, indicates the P/S (polyunsaturated fat/saturated fat) ratio is a better reflection of the fatty acid targets than an absolute value of saturated fat intake. • Recommend that there be two alternative definitions (manufacturer to choose), based on an ‘absolute’ low level or a ‘relatively’ low level: ‘either (a) of <1.5g in total saturated fatty acids and trans fatty acids /100g of solids and <0.75g in total saturated fatty acids and trans fatty acids /100 mL of liquids or (b) saturated and trans fatty acid content of 28% or total fats or less’. This accommodates foods with either an absolutely low level of saturated fat, or a relatively low level of saturated fat in a high unsaturated fat food and supports the notion that the ratio of saturated to unsaturated fatty acids is more important than a reduction in saturated fatty acids alone. <p>(1) Shrapnel, B and Nestel, P. Linoleic acid and coronary heart disease. Research 2007. (In press).</p> <p>(2) Shrapnel, B and Baghurst, K. Adequacy of essential fatty acid, vitamin D and vitamin E intake: Implications for the ‘core’ and ‘extras’ food group concept of the Australian Guide to Healthy Eating’. Nutr Diet 2007;64:78-85.(in press)</p> <ul style="list-style-type: none"> • Partly supports option 2 • Support that trans and saturated fatty acid be considered together in ‘low’ and ‘reduced’ claims • Pleased that claims regarding ‘low’ trans fatty acids in isolation will be prohibited.

Submitter	Group	Comments
The National Heart Foundation of New Zealand (Anna Malan)	Public Health – New Zealand	<ul style="list-style-type: none"> • Does not support voluntary declaration of trans fatty acids in the nutrition information panel, unless a claim is made. • Strongly recommends that declaration of trans fatty acids in nutrition information panels be mandatory given its adverse effect on the risk of developing cardiovascular disease. If this is not possible, proposes if a fat/oil added to a product has been hydrogenated then it must be declared as hydrogenated in the ingredient list. This would at least offer the consumer some information and require less from the manufacturer. States that this option would require an amendment to Standard 2.4.1 (Edible Oils). • Opposes FSANZ preferred option that prescribes the conditions for ‘low’ saturated fatty acids and ‘low’ saturated fatty acids and trans fatty acids. Comments that the proposed conditions effectively limit these claims to low fat foods which then means only low fat foods, and not those with higher levels of unsaturated fats such as oils, dressings, nuts and seeds, margarines would be able to make health claims. • Recommend that there be two alternative definitions (manufacturer to choose), based on an ‘absolute’ low level or a ‘relatively’ low level: ‘either (a) of <1.5 g in total saturated fatty acids and trans fatty acids /100 g of solids and <0.75 g in total saturated fatty acids and trans fatty acids /100 mL of liquids or (b) saturated and trans fatty acid content of 28% or total fats or less’. This accommodates foods with either an absolutely low level of saturated fat, or a relatively low level of saturated fat in a high unsaturated fat food and supports the notion that the ratio of saturated to unsaturated fatty acids is more important than a reduction in saturated fatty acids alone.
Australian Nut Industry Council	Industry - Australia	<ul style="list-style-type: none"> • Given that all nuts are trans fat free, nuts should be able to make trans fat free claims, but since the conditions for trans fat free claims require foods to also be low in saturated fat they currently can not. By changing the conditions for low saturated fat claims to 28% of total fat as saturated and trans fat, nuts will be able to highlight both the trans fat and healthy fat content of nuts.
Campbell Arnott’s Asia Pacific	Industry - Australia	<ul style="list-style-type: none"> • Recommends the following conditions of use for a ‘low saturated fat’ nutrition content claim: • <i>The food contains:</i> <ul style="list-style-type: none"> - <i>as a proportion of the total fatty acids content, no more than 28% saturated fatty acids and trans fatty acids; or</i> - <i>no more saturated fatty acids and trans fatty acids than 0.75 g per 100 g for liquid food; or</i> - <i>no more saturated fatty acids and trans fatty acids than 1.5 g per 100 g for solid food.</i> • Concerned that the low claim in relation to saturated fats will unfairly discriminate against products that have a higher fat content, yet have a nutritionally beneficial fatty acid profile. Recommend inclusion of an additional option in the conditions of use consistent with the existing standard 1.2.8 whereby the fatty acid profile is recognised. This will lead to three options for a food to make a low saturated fat claim.
General Mills Australia Pty Ltd and General Mills New Zealand Ltd Cereal Partners Worldwide Nestlé	Industry – Trans Tasman	<ul style="list-style-type: none"> • Recommends additional criteria for low saturated and trans fatty acid claims where the proportion of total fatty acids is no more than 28% saturated and trans fatty acids.

Submitter	Group	Comments
George Weston Foods Limited	Industry - Australia	<ul style="list-style-type: none"> Supports the AFGC recommendation that criteria for the claim ‘low in saturate (and trans) fatty acids’ should include: <ul style="list-style-type: none"> – A proportion of the total fatty acids content, no more than 28 per cent saturated fatty acids and trans fatty acids; or – No more saturated fatty acids and trans fatty acids than 0.75g per 100 g for liquid foods; or – No more saturated fatty acids and trans fatty acids than 1.5g per 100 g for solid food.
Murray Goulburn Co-operative	Industry – Australia	<ul style="list-style-type: none"> Strongly recommends that the proposed conditions of use for ‘low saturated fatty acids’ claims are reconsidered. Recommends a criterion in addition to those proposed: <ul style="list-style-type: none"> (ii) 1.5 g per 100 g for solid food; or (iii) 28 per cent of the total fatty acid content of the food A major physiological benefit provided by foods containing an absolute low level of saturated fat is currently considered by many health authorities to be its effects on blood cholesterol levels. However, an even greater benefit is considered to be achievable if foods which contain a significant amount of fat have a proportionally low level of saturate fat. This applies to oils such as olive and canola oil and products using these as ingredients in foods such as spread, biscuits and desserts. Notes that the National Heart Foundation states there is good evidence in ‘replacing saturated fatty acids with carbohydrate, polyunsaturated or monounsaturated fatty acids lowers total cholesterol and LDL-C, with a slightly greater effect with polyunsaturated fatty acids’
Nu-Mega Ingredients Pty Ltd	Industry - Australia	<ul style="list-style-type: none"> Recommends the conditions for ‘low’ saturated fat claims are changed to permit such claims when there is a ‘healthy’ fatty acid profile, for the benefit of the public. This would encourage greater use of healthier fats such as canola oil in foods. Recommend an alternative to the proposed criteria, of <i>saturated and trans fatty acid levels no more than 28% of total fatty acids.</i>
Goodman Fielder Limited	Industry – Australia & New Zealand	<ul style="list-style-type: none"> Opposes FSANZ’s preferred option prescribing conditions for ‘low saturated fat’ and ‘low saturated fatty acids and trans fatty acids in relation to the absolute values of less than 1.5 g in total saturated fatty acids and trans fatty acids/100 g of solids and less than 0.75 g in total saturated fatty acids and trans fatty acids/100 mL of liquids. These criteria would limit these claims to low fat foods, thereby excluding foods with higher levels of unsaturated fats, such as oils, dressings, nuts, seeds and margarines from making these content claims or an approved high level health claim relating to the type of fat. In addition, products developed to have reduced saturated fats or trans fatty acids would not be able to make comparison claims (e.g. margarine with butter) or include dietary information. Supports the recommendation from AFGC that a food be permitted to contain as a proportion of the total fatty acids content, no more than 28% fatty acids and trans fatty acids.
Horticulture Australia Limited (HAL)	Industry - Australia	<ul style="list-style-type: none"> Conditions for saturated fat do not allow foods such as nuts, avocado and olive oils that are high in unsaturated fats, to make saturated fat claims. Restriction of trans fat free claims to foods low in saturated fats excludes such claims for nuts and avocado which contain no trans fats. Suggests incorporation of criteria of <28% of total fat as saturated and trans fat to saturated and trans claims.

Submitter	Group	Comments
Sanitarium Australia/New Zealand	Industry – Australia/New Zealand	<ul style="list-style-type: none"> Proposed criteria of <1.5 g saturated fat and trans fats per 100 g of food and ≤ 0.75 g per 100 mL for liquids is too limited. Criteria would disadvantage a range of foods that are not low in fat but are proportionally low in saturated fat such as nuts, seeds and healthy oils. Supports an additional criteria of allowing foods containing <28% total fats as saturated plus trans being allowed to make low saturated fat claims.
Simplot Australia Pty. Ltd.	Industry - Australia	<ul style="list-style-type: none"> Considers that an alternative criteria be added stating that <i>‘the food contains as a proportion of the total fatty acid content, no more than 28% saturated fatty acids and trans fatty acids’</i>, (as per the conditions for unsaturated fatty acid content claims) to permit low in saturated fat (and trans) claims. Foods such as fatty fish (which are a valuable source of omega-3 fatty acids) and vegetable oils (such as canola oil) which are high(er) in total fat but contain favourable unsaturated fatty acid profiles may exceed the ‘no more saturated fatty acids and trans fatty acids than 1.5 g per 100 g for solid food (0.75 g per 100 g for liquid foods)’ and thus would not be permitted to carry low in saturated (and trans) fatty acid claims. The Heart Foundation recommends choosing both plant and marine omega-3 food sources as part of healthy eating; fish should be eaten at least twice a week; any type – fresh or canned.
Australian Food and Grocery Council (AFGC) Supported by Simplot	Industry - Australia	<ul style="list-style-type: none"> Does not support option 2. Recommends that FSANZ include the criteria for low in saturated (and trans) fatty acids as: the food contains: <ul style="list-style-type: none"> – as a proportion of the total fatty acids content, no more than 28 per cent saturated fatty acids and trans fatty acids; or – no more saturated fatty acids and trans fatty acids than 0.75 g per 100 g for liquid food; or – no more saturated and trans fatty acids than 1.5 g per 100 g for solid food.

6.2 Dietary fibre

Submitter	Group	Comments
ADECRON Food Tech Consulting	Industry – New Zealand	<ul style="list-style-type: none"> Agrees with removing ‘meal’ references. Agrees with criteria for each category of claim.
Australian Food and Grocery Council (AFGC) Supported by Simplot	Industry - Australia	<ul style="list-style-type: none"> Supports in-principle the proposed approach for ‘excellent source’ claims Queries the need for increased levels for ‘source’ and ‘good source’ criteria. Products carrying existing claims will need to be reformulated or cease to carry the claim. Changes from good source to source will raise questions in consumers’ minds. FSANZ have not produced evidence that raising the values is necessary.
Australian Nut Industry Council	Industry - Australia	<ul style="list-style-type: none"> Recommends current criteria as in CoPoNC for fibre claims. This would ensure no considerable changes to consumer perceptions and education regarding fibre-containing foods. Nuts such as cashews, macadamia, pine nuts and walnuts will not longer meet the ‘source’ criteria. Including fibre as a mandatory requirement in the nutrition information panel can ensure consumers have adequate information on fibre content.

Submitter	Group	Comments
Cadbury Schweppes Pty Ltd	Industry - Australia	<ul style="list-style-type: none"> • Supports the recommendations for increasing the requirement for fibre, for source and good source claims.
Campbell Arnott's Asia Pacific	Industry - Australia	<ul style="list-style-type: none"> • Recommends that the previous levels of 'source of fibre' at 1.5 g, 'good source' at 3 g and 'excellent source' at 6 g per serve be maintained. • Does not support increasing the level at which fibre 'source' and 'good source' claims can be made. Increasing the fibre level for a 'source' claim from 1.5g/serve to 2g/ serve will restrict many grain-based and grain-containing foods from making a claim. The new Nutrient Reference Values are reflective of the previous Better Health Commission recommendation of 30g per day and therefore do not warrant such a change. • Encourages responsible portion size of biscuits, crackers and soup. Increasing the fibre level will make it increasingly difficult to meet the minimum fibre source level due to smaller portion sizes. This will limit consumer understanding of products that contribute fibre and will therefore be counter productive in encouraging increased fibre intake from a wide variety of foods everyday. • Recommends that unrestricted declaration of fibre content within the nutrition information panel be permitted. • Believes that the provision of fibre information is of benefit to the health and wellbeing of consumers. The Standard should therefore permit the voluntary addition of fibre within the Nutrition Information Panel with no restrictions.
Coles Supermarkets	Industry – Australia	<ul style="list-style-type: none"> • Supports removal of meal/main dish criteria and added criteria for excellent source claims. • This encourages manufacture and consumption of foods rich in fibre.
Community and Public Health, Canterbury District Health Board	Public Health – New Zealand	<ul style="list-style-type: none"> • 'Excellent' and 'very high' fibre claims are inappropriate for foods with high levels of sugar, fat, sodium, as they are not a beneficial source of fibre. • Fruits and vegetables should be able to claim 'excellent' source because of their additional nutritional properties. • Beneficial effects of fibre may be annulled by high levels of sugar/fat/sodium and the claim could be used as a marketing tool for unsuitable products. • Recommends products with over 4 g and 6 g per 100 g can claim fibre and high fibre respectively but misleading words such as good source and excellent should not be permitted.
Department of Health and Human Services - Tasmania	Government - Australia	<ul style="list-style-type: none"> • Supports removal of main meal/main dish for simplification of the claim. • Supports excellent source/very high fibre claims in recognition that fibre intakes remain below target levels, and to allow industry to differentiate between foods with higher levels of fibre. Would like to see consistency between fibre claims and content claims (i.e. 10% of target as good source) to encourage consumers to understand rationale behind claims. However, recognise that these are lower as a percentage than other nutrition content claims, to allow a range of products to carry these claims, without causing major market disruption. Further review should consider increasing fibre to be consistent with other nutrition content claims. • Concerned that the current definition of fibre may allow high fibre claims on chocolate bars (polydextrose has been used as a bulking agent in reduced kilojoule chocolate bars). This definition of fibre may also allow health claims on foods of dubious nutritional value if the nutrition profiling criteria allows fibre points to be accrued with polydextrose. • Notes that the definition of fibre is currently under discussion at Codex.

Submitter	Group	Comments
Department of Human Services - Victoria	Government - Australia	<ul style="list-style-type: none"> • Supports Option 3 regarding meal/main dish products and criteria for excellent source and very high fibre claims, with the commitment from FSANZ that research will be conducted to determine whether manufacturers increase serving sizes to meet claim criteria. • Although not directly affected by this standard, Victoria recommends that the definition of fibre in Standard 1.2.8 be reviewed. This would ensure that Australia is consistent with the fibre definition proposed by the FAO/WHO to be considered at the 28th Codex session later in 2007: ‘Dietary fibre consists of intrinsic plant cell wall polysaccharides’. <ul style="list-style-type: none"> – The inclusion of the phrase ‘intrinsic’ is intended to emphasise that dietary fibre reflects fruits, vegetables and wholegrain cereal foods. – It does not include ‘carbohydrate polymers which have been obtained from food raw materials by ‘physical, enzymic or chemical means’, or synthetic ‘carbohydrate polymers’. It does not include a minimum degree of polymerisation to delineate between oligosaccharides and polysaccharides.
Fonterra Co-Operative Group Limited	Industry – Australia & New Zealand	<ul style="list-style-type: none"> • Endorses FSANZ proposed approach – allows manufacturers opportunity to gain recognition for food containing higher levels that ‘good source’ and is consistent with the approach of many international countries.
Food Technology Association of Victoria Inc (David Gill)	Industry - Australia	<ul style="list-style-type: none"> • Supports a move to 100 g unit for all fibre nutrition claims • Supports removal of the definition of ‘meal/main dish’
Fruco Beverages Ltd	Industry – Trans Tasman	<ul style="list-style-type: none"> • Agrees with the proposed approach. • This allows beverages such as McCoy fruit smoothie (fibre 2.1 g per 350 mL serve) to potentially be allowed to make a ‘source of fibre’ claim or if the fibre content were to be increased to 4 g per serve, a ‘good source’ claim. • Does not support a move to per 100 unit as this would limit innovation in the beverage sector for juice and water products to be a convenient source of soluble and insoluble fibres.
General Mills Australia Pty Ltd and General Mills New Zealand Ltd Cereal Partners Worldwide Nestlé	Industry – Trans Tasman	<ul style="list-style-type: none"> • Does not support increasing level at which source, good source and excellent source claims can be made about fibre. • FSANZ has not produced enough evidence that raising the value for fibre is necessary, other than the view ‘more is better’. • The increase makes it impossible for many breads, several breakfast cereals and nutritious snacks that currently make a ‘source’ claim to continue to make this claim. If fewer products are labelled as ‘source of’ fibre it will actually make it harder for consumers to increase their fibre intake, rather than easier. • Similarly, breads and breakfast cereals that were formerly labelled as a ‘good source’ may now be degraded to a ‘source’ claim. • Supports the inclusion of a criterion for an ‘excellent source’ claim however note that this is at an increased level which is also not supported as many products currently claiming an ‘excellent source’ of fibre will not be able to maintain the claim. • Urges FSANZ to align internationally with global regulations to encourage consistency between domestic and international food standards. This ensures Australia and New Zealand maintain the status of being a competitive food industry. Regulation no. EC1924/2006 states the level for a ‘source of fibre’ claim is 3g per 100g and a ‘good source’ claim is 6 g per 100 g.

Submitter	Group	Comments
George Weston Foods Limited	Industry - Australia	<ul style="list-style-type: none"> • Agrees with the removal of specific criteria for meals and main dishes. • Does not support increasing the level at which ‘source’ and ‘good source’ claims can be made for fibre. • Considers that FSANZ has not presented evidence that increasing the levels at which claims can be made will achieve an increase in dietary fibre intake. There is no evidence of market failure. • The proposed changes to criteria will mean that some products will need to be reformulated or will no longer be able to carry current claims. • Considers that labelling changes will cause consumer confusion and concern and will potentially affect sales as products will appear to have been reformulated to contain a lower fibre content. • Notes that a number of their bread products will have to change their communication on fibre claims, which will have the potential to lower consumers’ interpretation of bread as a healthy choice. • Considers the reference value of 30 g of dietary fibre (according to the 2006 NHMRC Nutrient Reference Values) to be the only appropriate level for males aged 19 plus. All other age groups (aside from lactating women) are currently recommended to consume less than this level. • For some population groups a product that contains 1.5 g fibre per serve (CoPoNC) will be contributing approximately 10% of their fibre needs – a significant dietary contribution. • Further, the 1995 Australian National Nutrition Survey found bread to be the highest contributor to dietary fibre intake in all age groups. • Does not support making fibre claims on a per 100 g basis as this is not how food is consumed and therefore support the recommendation to keep fibre claims on a per serve basis.
Go Grains Health and Nutrition Limited	Industry - Australia	<ul style="list-style-type: none"> • Does not support increasing the level at which fibre ‘source’ and ‘good source’ claims can be made. • Does not believe this will result in an increase in fibre intake and could have the opposite effect. The increase for ‘source’ claims makes it impossible for many breads and some cereals to continue to make this claim. Consumers will assume there has been a change in formulation. • In an environment where consumption of breads and cereals has been challenged by low carb diets, the absence or downgrading of fibre claims is likely to reinforce to consumers that these foods are not as good as they used to be. There is a need to instil consumer confidence in core food groups rather than undermine it. • Questions the adequacy of the scientific evidence on which the increased claim is based, and the hypothesis that people will overeat on foods that carry health claims. • Supports the recommendation to retrain criteria for ‘very high fibre’.
Heinz Australia and Heinz Wattie’s (Heinz)	Industry – Trans Tasman	<ul style="list-style-type: none"> • Questions the rationale for increased the criteria for source and good source of fibre claims. This implies requirements have increased which contradicts the information in the NRV review. • This means claims will need to change or be removed, which will make it harder for people to find food that contain beneficial dietary fibre and will add to confusion. • Recommends that if the higher level is maintained, to add an additional higher level of claim (very good source) rather than amending the current levels for making source and good source claims.

Submitter	Group	Comments
Horticulture Australia Limited (HAL)	Industry - Australia	<ul style="list-style-type: none"> Proposed changes to criteria in CoPoNC for all claims will disadvantage tree nuts which are generally recommended as sources of fibre. To ensure no change to nutrition education and to reduce consumer confusion, CoPoNC criteria should be used for all three levels of claims.
Kellogg (Aust) Pty Ltd	Industry - Australia	<ul style="list-style-type: none"> Fully supports the addition of criteria for an ‘excellent’ source of fibre claim. Does not support increasing the criteria for making fibre claims. Supports maintaining the current meaningful and scientifically sound criteria in CoPoNC of 1.5g, 3g and 6g per serve, as FSANZ has not provided any rationale for the need to increase these levels: <ul style="list-style-type: none"> FSANZ has not demonstrated harm to public health and safety nor misleading or deceptive conduct under the current setting. To help ensure consistency and understanding of nutrition content messages, the criteria should remain unchanged unless there have been significant changes in the science to support such a change. Are not aware of any changes in the science that warrant such changes. FSANZ states that increasing the level at which claims can be made will achieve an increase in fibre intake. Note that countries such as the US and Canada have higher qualifying levels but lower average fibre intake than Australia. Increasing the qualifying criteria will reduce the number of products that can make claims, which will deny consumers information that would otherwise have assisted them in choosing foods to help meet their fibre needs. See Table 1 in the Appendix to the submission that demonstrates that increasing the levels for ‘source’, ‘good source’ and ‘excellent source’ claims would reduce the number of products that could carry these claims. A change in the criteria could create significant consumer confusion.
Kraft Foods Limited	Industry - Australia	<ul style="list-style-type: none"> Rejects proposed approach. An alternative to encourage increased fibre consumption is to encourage claims where the food contains >5% of the RDI, to claim ‘contains x% fibre per serve’. If FSANZ conclude that 6.5% of the RDI is sufficient to make a ‘source’ claim, then all other parameters should be able to claim ‘source’ by the same logic. Supports option 3 in part, except that the quantities of each claim should be varied to 10% of the RDI for source claims and 25% of the RDI for good source claims.
New South Wales Food Authority	Government - Australia	<ul style="list-style-type: none"> Suggests that consumer education is required on the concept of ‘excellent source’ and ‘very good source’ for nutrition content claims. Without such education, it is unlikely consumers will understand the quantitative difference between such claims.
New Zealand Dietetic Association (Jan Milne)	Public Health – New Zealand	<ul style="list-style-type: none"> Supports FSANZ’s recommended approach

Submitter	Group	Comments
New Zealand Food and Grocery Council (NZFGC) Supported by Unilever Australasia	Industry – New Zealand	<ul style="list-style-type: none"> • Supports removal of specific criteria for meal/main dish products and inclusion of an ‘excellent’ source claim. • Does not agree with increased levels required for ‘source’ claims. This may confuse consumers, decrease fibre intake and create unnecessary re-labelling.
New Zealand Ministry of Health (Cynthia Maling)	Government – New Zealand	<ul style="list-style-type: none"> • Supports Option 3 as recommend by FSANZ but concerned that serving size will be manipulated by industry. • Recommends that serving size be monitored until such time that criteria are developed by FSANZ to determine realistic serving sizes. • Comments that the analytical method for obtaining fibre values in the New Zealand Food Composition Database is not consistent with that specified in the Food Standards Code, thus claims based on these data could be misleading.
Parmalat	Industry – Australia	<ul style="list-style-type: none"> • Supports option 3 for the inclusion of a nutrition content claim for ‘excellent source of fibre’ and ‘very high fibre’ claims.
Private (Jack Ward)	Consumer - Australia	<ul style="list-style-type: none"> • Supports Option 3 as recommended by FSANZ with a comment to review the definition of ‘dietary fibre’. • Concerned over the definition of dietary fibre as it has led to the successful Applications for inulin, maltodextrin etc, which if the sole source of dietary fibre, would be unlikely to have the benefits attributed to fibre.
Queensland Health	Government - Australia	<ul style="list-style-type: none"> • Supports option 3 – the proposal to remove the definition of meal/main dish products and add nutrition content claims for ‘excellent source’ of fibre or ‘very high fibre’ claims. • Reiterate concern about foods with added polydextrose being permitted to carry fibre content claims particularly where it is the sole or major source of fibre. • Also has concerns about polydextrose being used for positive fibre points to allow an otherwise borderline food to qualify for a health claim. A definition of fibre is required that reflects the emphasis on fruits and vegetables and wholegrains as sources of fibre.
Sanitarium Australia/New Zealand	Industry – Australia/New Zealand	<ul style="list-style-type: none"> • Does not support increasing the levels for ‘source’ and ‘good source’ claims but supports the retention of ‘excellent’ source claims • No evidence that increasing the levels will result in increased fibre intakes • Increase makes it difficult for foods currently carrying claims to continue (e.g. Weet-Bix which is 97% wholegrain will no longer be able to carry the ‘high in fibre’ claim); thus these minimally processed foods will be penalized • There is a need to instil consumer confidence in the core food groups rather than undermine it. Strongly questions the scientific evidence on which the increased requirements are based. • Suggests that CoPoNC claims/levels are retained
Simplot Australia Pty. Ltd.	Industry - Australia	<ul style="list-style-type: none"> • Increasing the level at which ‘source’ and ‘good source’ claims can be made for dietary fibre, will adversely affect current claims made on frozen vegetable packaging. Vegetables are an important source of dietary fibre and should be able to be promoted as such. Appendix 1 lists specific examples of foods affected by the proposed criteria and conditions for dietary fibre claims. <i>(Included in Appendix 1 to the submission: Table itemising a sample of Simplot products which would be affected by the proposed fibre criteria)</i>

Submitter	Group	Comments
		<ul style="list-style-type: none"> • Vegetables such as broccoli, cauliflower, corn cobs and some vegetable mixes would be no longer able to make ‘source of fibre’ claims. With the exception of corn cobs the serving size is 75 g. A sample serve of cooked vegetables in the Australian Guide to Healthy Eating is 75 g or ½ cup. • Vegetables such as Brussels sprouts, baby beans, mint peas, baby peas and some vegetable mixes would have ‘high in fibre’ claims downgraded to ‘source of fibre’ claims.
Sunbeam Foods	Industry – Australia	<ul style="list-style-type: none"> • Does not support an increase in the level of fibre foods need to contain before qualifying for making content claims. • Believes this may result in decreased fibre consumption as there will be fewer claims • 30 g portion packs and a range of fruit and nut bars will no longer qualify; could increase portion size but this is counterproductive to assisting consumers to manage weight through appropriate serve sizes. • Recommends conditions for claims are kept the same as though in CoPoNC at 1.5g, 3g and 6g respectively for ‘source of’, ‘good source’, and ‘very high/excellent’ source
The National Heart Foundation of Australia (Anne-Marie Mackintosh)	Public Health - Australia	<ul style="list-style-type: none"> • Partly supports Option 3. • Supports the removal of the definition of meal/main dish products. • Believes that ‘excellent source’ or ‘very high fibre’ source claims are not needed and should be prohibited. • Opposes the increase in dietary fibre content from 1.5 g per serve to 2 g and from 3 g to 4 g per serve for ‘source’ and ‘good source’, respectively. Questions FSANZ as to the evidence used for the basis of this increase of the levels at which the claims can be made and will this achieve an increase in dietary fibre intake? • Believes this will mean that some products meeting the current criteria will need to be reformulated and/or relabelled to meet the new criteria, or else relabelled to remove current claims. • States that changes to labelling of products may cause consumer confusion as they may believe these foods contain less fibre. • Concern is raised that serving sizes may be artificially manipulated (increased) to achieve the prescribed target quantity. • Recommends that condition for the levels of fibre content claims remain unchanged and maintain the current CoPoNC guidelines for fibre.
The National Heart Foundation of New Zealand (Anna Malan)	Public Health – New Zealand	<ul style="list-style-type: none"> • Partly supports Option 3. • Supports the removal of the definition of meal/main dish products. • Believes that ‘excellent source’ or ‘very high fibre’ source claims are not needed and should be prohibited. • Opposes the increase in dietary fibre content from 1.5 g per serve to 2 g and from 3 g to 4 g per serve for ‘source’ and ‘good source’, respectively. Questions FSANZ as to the evidence used for the basis of this increase of the levels at which the claims can be made and will this achieve an increase in dietary fibre intake? • Believes this will mean that some products meeting the current criteria will need to be reformulated and/or relabelled to meet the new criteria, or else relabelled to remove current claims. • States that changes to labelling of products may cause consumer confusion as they may believe these foods contain less fibre. • Concern is raised that serving sizes may be artificially manipulated (increased) to achieve the prescribed target quantity.

Submitter	Group	Comments
		<ul style="list-style-type: none"> • Recommends that condition for the levels of fibre content claims remain unchanged and maintain the current CoPoNC guidelines for fibre.
The New Zealand Food Safety Authority (Carole Inkster)	Government - New Zealand	<ul style="list-style-type: none"> • Supports Option 3 with the term ‘very high fibre’ used as the descriptor in place of ‘excellent source’. • Does not support the term ‘excellent source’ as believe this could be taken to imply the food vehicle is ‘excellent’ which has connotations relating to the healthiness of the food vehicle. • States that as such a claim would not be subject to nutrient profiling, the term ‘excellent source’ could mislead the consumer as to the quality of the food. • Believes that ‘excellent source’ may give the impression that fibre needs can be met by a serving of a product making this claim and that no other source of fibre is required; this would be misleading. • Supports FSANZ’s view that serving size will need to be monitored with regard to fibre claims and suggest this is undertaken as part of the review of the nutrition, health and related claims standard.
Dietitians Association of Australia (Ms Kate Poyner)	Public Health - Australia	<ul style="list-style-type: none"> • Opposes the increase in dietary fibre content from 1.5 g per serve to 2 g, from 3 g to 4 g per serve and from 6 g to 7 g per serve for ‘source’, ‘good source’ and ‘excellent source’ of dietary fibre, respectively. • Questions FSANZ about the evidence base used for recommending this increase and what evidence they have that these changes will lead to an increase in dietary fibre intake? • Comments that the change in regulatory criteria will mean that some products meeting the current criteria will need to be reformulated and/or relabelled to meet the new criteria, or else relabelled to remove current claims. • Believes that changes to labelling of products may cause consumer confusion as they may believe these foods contain less fibre. • Concern is raised that serving sizes may be artificially manipulated (increased) to achieve the prescribed target quantity. • Recommends that the levels for fibre content claims remain unchanged and that the draft standard 1.2.7 Table to clause 11 maintain the current CoPoNC guidelines for fibre. Three claims would be possible: <ul style="list-style-type: none"> • Source (1.5 g per serve) • Good Source (3 g per serve) • Excellent source (6 g per serve)
The National Heart Foundation of Australia (Anne-Marie Mackintosh)	Public Health - Australia	<ul style="list-style-type: none"> • Seeks clarification regarding a food manufacturer wishing to voluntarily include a nutrient/constituent in the NIP beyond what is required (Std 1.2.7 clause 4 and 5) but may not necessarily meet the conditions for a content claim, would this still be considered a claim? • And if this is the case, the Heart Foundation seeks clarification with respect to the Tick Program. The Tick is a certification trademark and has, as part of its legal requirements for certification, substantiating evidence in the form of nutrient criteria. In order to evidence Tick criteria compliance on pack, Tick licensees may be required to include nutrients in their NIP that are beyond those stated as mandatory in the std 1.2.7 clause 4 and 5. • For example, a Tick licensee ‘Y’ has a Tick approved sweet biscuit ‘X’ which, per the requirements of the certification trademark (and therefore the license agreement with the Heart Foundation) must meet the following criteria and indicate these values in the NIP :

Submitter	Group	Comments
		<ul style="list-style-type: none"> - energy: 600 kJ/serve or less - saturated fat: 2g/serve or less - no partially hydrogenated fat or trans fat: 0.2g/100g or less (products with a total fat content of 1g/100g or less will also be considered to comply with this criterion) - sodium: 250 mg/100 g or less - fibre: 1g/serve or more <ul style="list-style-type: none"> • Comments: ‘as it is proposed in the draft std 1.2.7, trans fat and fibre are constituents that are not mandatory in the NIP but under the Tick license agreement must be stated in the NIP, and specifically for trans fat criterion, this requires a full fatty acid profile. As the value of the nutrient for fibre does not meet conditions for a content breach of the standard?’
Goodman Fielder Limited	Industry – Australia & New Zealand	<ul style="list-style-type: none"> • Recommends consideration is given to excluding the Nutrition Information Panel as a source of a claim, as this would allow manufacturers to communicate valuable information to consumers via the NIP. • Is concerned that the useful information currently included in the Nutrition Information Panel, to assist consumers to make information choices (rather than for the purposes of backing up a health or nutrition claim), would be no longer permitted under the current proposal. <ul style="list-style-type: none"> - For example, in relation to dietary fibre – unless a product contains at least 2g of dietary fibre per serve it will not be permitted to be included in the NIP, as dietary fibre is not a mandatory nutrient to be declared (hence its inclusion would be an implied claim). - Considers that this is inconsistent with the aim to increase population consumption of dietary fibre, and note that many bread and cereal manufacturers provide this information for consumer information • Also notes that if a product is part of the National Heart Foundation’s Tick Program and fibre is one of the criteria for the category it is required to appear in the NIP. <ul style="list-style-type: none"> - In the case of bread products the criteria is 4g/100g, so for some products they would have to increase the serve size in order to meet the proposed nutrition content claim criteria of 2g/serve. - Also note that conversely, if meat pies are part of the Tick Program they would meet the requirements for a dietary fibre nutrition claim. • Notes that consumers are increasingly requesting more product nutritional information, hence like other companies, they include about nutritional aspects of their products regarding poly-, mono-, fatty acid, cholesterol content in the NIP of products. However, with the proposed changes provision of this information may be no longer possible and consumers will have to contact companies to obtain the information.

6.3 No added salt

Submitter	Group	Comments
Australian Food and Grocery Council (AFGC) Supported by Simplot	Industry - Australia	<ul style="list-style-type: none"> • Supports proposed approach.

Submitter	Group	Comments
Cadbury Schweppes Pty Ltd	Industry - Australia	<ul style="list-style-type: none"> Supports the revised approach.
Coles Supermarkets	Industry – Australia	<ul style="list-style-type: none"> Supports proposed approach.
Confectionery Manufacturers of Australasia (CMA) Limited Supported by CMA New South Wales, CMA Victorian Branch, CMA Queensland Branch, CMA NZ Branch and CMA South Australian Branch, International Confectionery Association	Industry – Trans Tasman	<ul style="list-style-type: none"> Supports the recommendation for no requirement for the disclaimer.
Dairy Australia	Industry - Australia	<ul style="list-style-type: none"> Supports Option 2 and agrees with FSANZ to maintain the status quo of no requirement for a disclaimer stating that the food contains naturally occurring sodium.
Department of Health and Human Services - Tasmania	Government - Australia	<ul style="list-style-type: none"> Agrees that a disclaimer does not assist consumers to understand the claim better. There is less evidence around no added salt claims and naturally occurring high sodium levels. Believes in order to promote consistency and consumer understanding of the meaning of the claims, the Code should permit the ‘no added salt’ claim only on products which meet the criteria for the ‘low sodium’ claims and do not require the disclaimer.
Department of Human Services - Victoria	Government - Australia	<ul style="list-style-type: none"> Does not support either option. Would support an option that did not require the disclaimer stating the food contains naturally occurring sodium; however that met the criteria for a low salt claim. Similar to the ‘no added sugar’ claim, consumers infer the no added salt infers the product is low in salt. This is consistent with the position on the ‘no added sugar’ claim. Furthermore, there is no benefit from consuming naturally occurring salt and if there are few products that are naturally high in salt, then the effect on industry will be minimal whilst ensuring consumers are not misled.
Fonterra Co-Operative Group Limited	Industry – Australia & New Zealand	<ul style="list-style-type: none"> Endorses and strongly agrees with maintenance of the status quo that there will be no requirement for a disclaimer stating that the food contains naturally occurring salt (sodium).
Food and Beverage Importers Association Supported by Unilever Australasia	Industry - Australia	<ul style="list-style-type: none"> Supports retention of the <i>status quo</i>.

Submitter	Group	Comments
Food Technology Association of Victoria Inc (David Gill)	Industry - Australia	<ul style="list-style-type: none"> • Supports option 2 as recommended by FSANZ • Suggests that consumers do not understand the difference or the relationship between ‘sodium’ and ‘salt’.
General Mills Australia Pty Ltd and General Mills New Zealand Ltd Cereal Partners Worldwide Nestlé	Industry – Trans Tasman	<ul style="list-style-type: none"> • Support the proposed approach.
Kraft Foods Limited	Industry - Australia	<ul style="list-style-type: none"> • Supports the proposed approach. • This is a simplification of the current regulations. • If there is difficulty in interpretation, an education program will assist.
New South Wales Food Authority	Government - Australia	<ul style="list-style-type: none"> • Concerned about the appropriate capture of hydrolysed vegetable protein (HVP) in the current proposal for no added salt claims. It would appear that HVPs may be added to foods with no requirement to declare salt content, as it does not constitute an added sodium compound. • Recommends FSANZ re-assess its recommendations with respect to no added salt claims prior to consideration of proposal 293 by the FSANZ Board.
New Zealand Dietetic Association (Jan Milne)	Public Health – New Zealand	<ul style="list-style-type: none"> • Support FSANZ’s recommended approach
New Zealand Food and Grocery Council (NZFGC) Supported by Unilever Australasia	Industry – New Zealand	<ul style="list-style-type: none"> • Supports the proposed approach to remove the disclaimer.
Queensland Health	Government - Australia	<ul style="list-style-type: none"> • In relation to ‘no added’ salt claims, neither option is supported. • Would support an option that required a product carrying a ‘no added’ claim to meet the criteria for a ‘low salt’ claim. A disclaimer would not be necessary. As in the ‘no added sugar’ claim consumers are likely to infer that ‘no added’ products are low in salt.
SA Department of Health	Government - Australia	<ul style="list-style-type: none"> • Agrees with the removal of the disclaimer. • Recommends the claim is only permitted on low salt foods. • This reflects FSANZ research showing consumer confusion about what the low salt refers to, e.g. in canned vegetables, the vegetable or the liquid. • See AWASH campaign and website for information on the growing recognition of reduced salt intake.

Submitter	Group	Comments
South Australia Department of Health	Government - Australia	<ul style="list-style-type: none"> As with ‘no added sugar’ content claim, and reflecting FSANZ research showing consumer confusion about just what that low salt refers to in an item such as canned vegetables (the vegetable or the liquid), agrees with removal of the requirement to refer to ‘naturally occurring sodium/salt’ but prefers that the product meets low salt criteria. There is a growing recognition of the benefit to public health of reduced salt intakes (referred the new Australian Division of World Action on Salt and Health (AWASH) campaign – http://www.awash.org.au/)
Australian Medical Association (Dr Margaret Chirgwin)	Other - Australia	<ul style="list-style-type: none"> Supports Option 2 as recommended by FSANZ Would also support an approach that encompassed aspects of Option 3 in relation to the ‘no added sugar’ claim’, which would only allow for the claim to be used by products who met a set criteria for low salt.
Dietitians Association of Australia (Ms Kate Poyner)	Public Health - Australia	<ul style="list-style-type: none"> Supports FSANZ’s preferred approach with a modification that foods carrying the claim also meet the criteria for a low salt food.
New Zealand Ministry of Health (Cynthia Maling)	Government – New Zealand	<ul style="list-style-type: none"> Supports Option 2, with some modifications. Believes products eligible to carry the ‘no added salt’ content claim should be required to meet the criteria for ‘low’ sodium, and/or some other criteria to ensure foods high in risk-increasing nutrients are not eligible for this claim. Agrees it is not necessary to include a disclaimer when the ‘no added salt’ claim is used because less than 10% of sodium in food is naturally occurring.
Private (Jack Ward)	Consumer - Australia	<ul style="list-style-type: none"> Supports Option 2 as recommended by FSANZ
The National Heart Foundation of Australia (Anne-Marie Mackintosh)	Public Health - Australia	<ul style="list-style-type: none"> Supports Option 2 Pleased that the content ‘no added salt’ claim now reads ‘the food contains no added sodium compound including no added salt’
The National Heart Foundation of New Zealand (Anna Malan)	Public Health – New Zealand	<ul style="list-style-type: none"> Supports Option 2 Pleased that the content ‘no added salt’ claim now reads ‘the food contains no added sodium compound including no added salt’
The New Zealand Food Safety Authority (Carole Inkster)	Government - New Zealand	<ul style="list-style-type: none"> Supports a position in line with Option 3 for ‘no added sugar’ which would permit the ‘no added salt’ claim only on products that meet the criteria for ‘low’ salt and do not require the disclaimer. In the absence of an equivalent option to Option 3 for ‘no added sugar’, NZFSA would support Option 2.

6.4 No added sugar

Submitter	Group	Comments
ADECRON Food Tech Consulting	Industry – New Zealand	<ul style="list-style-type: none"> Suggests updating the definition under Standard 2.8.1 for new natural sweetener products such as natural sweet rice syrups. Agrees with proposal to remove requirement for disclaimer.

Submitter	Group	Comments
Australian Food and Grocery Council (AFGC) Supported by Simplot	Industry - Australia	<ul style="list-style-type: none"> • Supports proposed approach.
Australian Fruit Juice Association (AFJA)	Industry - Australia	<ul style="list-style-type: none"> • Does not agree with foods concentrated fruit juice should be prohibited from carrying this claim, e.g. a smoothie with 40% milk and 60% concentrated juice. • Agrees with incorporation of deionised fruit juice in the criteria.
Cadbury Schweppes Pty Ltd	Industry - Australia	<ul style="list-style-type: none"> • Supports the revised approach.
Choice – Australia	Consumer - Australia	<ul style="list-style-type: none"> • Does not support FSANZ approach – considers there should be a mandatory requirement for a statement that the food contains naturally occurring sugars. • Believes the ‘no added sugar’ claim can be on products high in ‘natural’ sugar such as fruit spread sweetened with grape juice concentrate. • Refers to FSANZ 2003 research which reported 58% respondents claimed that canned peaches had no or low sugar levels.
Coles Supermarkets	Industry – Australia	<ul style="list-style-type: none"> • Supports proposed approach.
Confectionery Manufacturers of Australasia (CMA) Limited Supported by CMA New South Wales, CMA Victorian Branch, CMA Queensland Branch, CMA NZ Branch and CMA South Australian Branch, International Confectionery Association	Industry – Trans Tasman	<ul style="list-style-type: none"> • Supports the recommendation for no requirement for the disclaimer.

Submitter	Group	Comments
Dairy Australia	Industry - Australia	<ul style="list-style-type: none"> • Supports Option 2, to maintain the status quo and not mandate a statement on the label, that the food contains naturally occurring sugar. Such a statement may be confusing for consumers – as was concluded in the consumer research commissioned by FSANZ (p.62). It may also adversely affect the consumption of dairy products as there is insufficient knowledge in the general population that lactose is a type of sugar with beneficial health effects. Lactose, is acknowledged to be far less cariogenic than sucrose. • In its review for the World Health Organization, Moynihan and Peterson (2004) concluded that ‘for dental health and general health purposes it is important to distinguish between sugars naturally present in fruits, vegetables, grains and milk as the evidence shows that these foods are not associated with dental caries.’ • Also Dairy Australia proposes that concentrated fruit juice, frequently used to flavour natural yogurts, be excluded from the definition of ‘added sugar’. • FSANZ have recognised that fruit juice concentrates contribute vitamins and minerals by permitting them to contribute to fruit and vegetable points in the eligibility scoring criteria.
Dairy Farmers	Industry - Australia	<ul style="list-style-type: none"> • Supports option 2 in that it does not discriminate against natural sugars, as does options 1 and 3.
Department of Health and Human Services - Tasmania	Government - Australia	<ul style="list-style-type: none"> • Does not support the preferred option as the FSANZ consumer research indicates a significant proportion of consumers do not understand these claims. • Supports Option 3 – permit the ‘no added sugar’ claim only on products which meet the criteria for the ‘low’ sugar claim and do not require the disclaimer. Criteria for ‘low’ sugar: no more than 2.5 g sugar per 100 mL for liquid food and 5 g per 100 g for solid food. • Consumer research described by FSANZ indicates whilst understanding that products carrying this claim may have natural sugar, the majority assume the product is low in sugars. The fact that products with the no added sugar claim can contain sugar at similar or higher levels to similar products with added sugar shows the claim does not provide useful information to consumers on sugar levels and may be misleading or deceptive. • Under fair trading laws it is recognised that while a statement may be literally true, it may also be misleading. This has not resulted in significant market correction as ACCC has other priorities and jurisdictions are not keen to pursue cases which are difficult to prove. • FSANZ has commented that it is not known to what extent consumer purchase patterns are influenced by no added sugar claims and the extent to which consumer health is being affected by this. There is no evidence available that the claims are detrimental to <ul style="list-style-type: none"> (a) Protection of public health and safety; however there is clear evidence that consumers evidence that consumers are confused by these claims therefore they do not (b) Produce adequate information relating to food to enable consumers to make informed choices; or (c) Prevent misleading or deceptive conduct. <p>Fruit juice has been noted as one category of food that will be specifically affected by these provisions, as it is perceived as healthy. Nutritionists and oral health specialists have raised significant concerns regarding excess consumption of fruit juice in relation to oral health and weight management.</p>

Submitter	Group	Comments
		The perception of healthiness with ‘no added sugar’ may contribute to this excess consumption, given the proportion of consumers who believe no added sugar is low in sugar.
Department of Human Services - Victoria	Government - Australia	<ul style="list-style-type: none"> Supports Option 3 – permitting ‘no added sugar’ claims on products which meet the criteria for the ‘low sugar’ claim. Consumer research described by FSANZ indicates whilst understanding that products carrying this claim may have natural sugar, the majority assume the product is low in sugars. The fact that products with the no added sugar claim can contain sugar at similar or higher levels to similar products with added sugar shows the claim does not provide useful information on sugar levels and may be leading or deceptive (which was confirmed through the consumer research).
Fonterra Co-Operative Group Limited	Industry – Australia & New Zealand	<ul style="list-style-type: none"> Endorses and strongly agrees with maintenance of the status quo that there will be no requirement for a disclaimer stating that food contains naturally occurring sugar. Notes that this is consistent with public health understanding that naturally occurring sugars are not associated with dental caries.
Food and Beverage Importers Association Supported by Unilever Australasia	Industry - Australia	<ul style="list-style-type: none"> Supports retention of the status quo, which is permitting the making of a factual statement.
Food Technology Association of Victoria Inc (David Gill)	Industry - Australia	<ul style="list-style-type: none"> Supports the approach at Draft Assessment, i.e. to require a statement of naturally occurring sugars
Frucor Beverages Ltd	Industry – Trans Tasman	<ul style="list-style-type: none"> Agrees with proposed approach. Does not support addition of sugar in juices although permitted in the Code. Supports industry self-regulation of the claim and enforcement under fair trade legislation.
General Mills Australia Pty Ltd and General Mills New Zealand Ltd Cereal Partners Worldwide Nestlé	Industry – Trans Tasman	<ul style="list-style-type: none"> Does not agree with the restriction of concentrated fruit juice in products carrying ‘no added sugar’ claims. FSANZ assume that concentrated fruit juice is not added for flavouring purposes in the same way single strength juice is. Concentrated fruit juice is more convenient and shelf stable than single strength juice. Notes that both fruit juice and concentrated fruit juice are permitted as V points in the nutrient profiling model and it would seem consistent that products containing concentrated fruit juice which only had water removed should be permitted to carry a no added sugar claim. FSANZ acknowledges that dried fruit has high levels of fruit sugar and permits these to carry no added sugar claims. Dried fruit is fruit with the water removed, just as concentrated fruit juice is fruit juice with the water removed. Supports the restriction on deionised fruit juice. Supports the removal of the disclaimer.
Heinz Australia and Heinz Wattie’s (Heinz)	Industry – Trans Tasman	<ul style="list-style-type: none"> Agrees in general with the criteria, except where concentrated juices are added in very small quantities for purposes other than sweetening. In these cases the claim should still be permitted, e.g. addition of concentrated lemon juice as an acidifier.

Submitter	Group	Comments
Kraft Foods Limited	Industry - Australia	<ul style="list-style-type: none"> • Supports the proposed approach. • This is a simplification of the current regulations. • If there is difficulty in interpretation, an education program will assist.
New South Wales Food Authority	Government - Australia	<ul style="list-style-type: none"> • NSW has received advice from the NSW Office of Fair Trading that it does not have the capacity to dedicate resources to the enforcement of food standards related activities nor the expertise to pursue such matters. NSW, while unsure of the state of Fair Trading resources in other jurisdictions, urges FSANZ to consider these resources are likely quite limited, and limit the scope of food related enforcement activities provided for these Departments to the least possible. • 'Fair trading' issues are more likely to be actioned under the false description provisions of State and Territory Food Acts by relevant food authorities.
New Zealand Dietetic Association (Jan Milne)	Public Health – New Zealand	<ul style="list-style-type: none"> • Supports Option 3
New Zealand Food and Grocery Council (NZFGC) Supported by Unilever Australasia	Industry – New Zealand	<ul style="list-style-type: none"> • Support the proposed approach to remove the disclaimer. • It is inequitable that foods with concentrated fruit juice cannot make the claim but dried fruits containing high levels of sugar can.
Parmalat	Industry – Australia	<ul style="list-style-type: none"> • Support option 2 – retaining the status quo in relation to 'no added sugar' claims. Agree that the requirement for a disclaimer relating to the presence of natural sugars serves no consumer benefit.
Queensland Health	Government - Australia	<ul style="list-style-type: none"> • Supports option 3 – to permit the 'no added' claim only foods that meet the criteria for the 'low' sugar claim, in relation to no added sugar claims. • FSANZ research has indicated that many consumers are likely to interpret products with the 'no added' sugar claim as being 'low' in sugars. Further some products with the claim have similar levels or higher levels to those without the claim. Therefore option 3 allows for informed consumer choice and reduces the risk of consumers being misled by 'no added' claims.
SA Department of Health	Government - Australia	<ul style="list-style-type: none"> • Commends the inclusion of concentrated and deionised fruit juice and malt extracts in the criteria. • Prefer option 3 – only permit this claim on products which meet the low sugar criteria. • Alternatively, use compositional criteria such as is required for some other nutrition content claims. • Notes that majority of consumers assume the product is low in sugars.
South Australia Department of Health	Government - Australia	<ul style="list-style-type: none"> • Recommend the inclusion of concentrated and deionised fruit juice and malt extracts as 'added sugar' for the purpose of the Standard. • Prefer option 3 – permit the 'no-added sugar' claim only on products which meet the criteria for the 'low' sugar claim. • An alternative approach is the use of compositional criteria such as is required for some other nutrition content claims. Consumer research described by FSANZ indicates that whilst understanding that products carrying this claim may have natural sugar, the majority assume the product is low in sugars.

Submitter	Group	Comments
Australian Medical Association (Dr Margaret Chirgwin)	Other - Australia	<ul style="list-style-type: none"> • Comments that there is evidence of confusion with the 'no added sugar' claim across three separate studies. • Supports a combination of Option 3 and Option 1
Consumers' Institute of New Zealand Incorporated (Belinda Allan)	Consumers – New Zealand	<ul style="list-style-type: none"> • Supports Option 1 • Results from a 2003 FSANZ study suggested that some consumers were confused about what a 'no added sugar' claim meant. Fifty-eight percent of consumers in the survey thought that a tin of peaches carrying a 'no added sugar' claim contained no sugar or only small amounts of sugar.
Dietitians Association of Australia (Ms Kate Poyner)	Public Health - Australia	<ul style="list-style-type: none"> • Does not understand why FSANZ supports Option two when research in the PFAR indicates that over half (58%) misinterpret the 'No added sugar claim'. • Prefers Option 3 and believes this to be more in line with FSANZ core objective of 'prevention of misleading or deceptive conduct'. • States industry will have a long lead in time to change labels, and that this should not be a significant disadvantage. • Does not expect that consumer's will change their fruit juice consumption because a 'no added sugar' claim is removed.
Glycemic Index Symbol Program (Alan Barclay)	Public Health - Australia	<ul style="list-style-type: none"> • Does not understand why FSANZ supports Option two when research in the PFAR indicates that over half (58%) misinterpret the 'No added sugar claim'. • Prefers Option 3 and believes this to be more in line with FSANZ core objective of 'prevention of misleading or deceptive conduct'.
New Zealand Ministry of Health (Cynthia Maling)	Government – New Zealand	<ul style="list-style-type: none"> • Supports Option 3, with some modifications. • Believes that products permitted to carry a 'no added sugar' content claim should be required to meet the criteria for 'low' sugar, and/or some other criteria to ensure foods high in risk-increasing nutrients are not eligible for this claim. • Recommends the inclusion of deionised fruit juice and malt extracts in the definition of 'added sugar'. • Disagrees with the recommendation to remove the requirement for foods making a 'no added sugar' claim to include a statement that the food contains naturally occurring sugars. • Comments that research commissioned by FSANZ shows this statement or disclaimer does increase consumer understanding. Without this disclaimer, approximately 20% of respondents stated the food with a 'no added sugar' claim had no sugar. With this disclaimer, approximately 10% of respondents stated the food had no sugar. Had this study been representative of young adults and low-income groups in New Zealand, it is believed a greater proportion of respondents would have incorrectly interpreted the 'no added sugar' claim. • Comments that as highlighted in Table 1 of the PFAR, products with a 'no added sugar' claim often had more sugar than other similar products without this claim. States that this clearly demonstrates that this claim is often used by industry to mislead consumers. • Recommends % sugar free claims not be permitted because they can be used to mislead consumers.
Private (Jack Ward)	Consumer - Australia	<ul style="list-style-type: none"> • Supports Option 1

Submitter	Group	Comments
The Cancer Council Australia (Kathy Chapman, Sarah Mackay, Terry Slevin) Supported by the Cancer Council Western Australia	Public Health - Australia	<ul style="list-style-type: none"> Believes it is unlikely that Australian fair trading laws would be enforced on this issue because the claims are literally true, despite being misleading a times. Does not regard Option 2 as an adequate risk management approach.
The New Zealand Food Safety Authority (Carole Inkster)	Government - New Zealand	<ul style="list-style-type: none"> Supports Option 3 as recommended by FSANZ
The New Zealand Nutrition Foundation (Kelsey Woodcock)	Public Health – New Zealand	<ul style="list-style-type: none"> Comments that FSANZ consumer research regarding the ‘no added sugar’ claim shows that there is still confusion around the claim, with a considerable proportion of research participants interpreting products with the ‘no added’ claim as containing no or low levels of sugar irrespective of the actual level of sugar present in the product. Noted that some products with the ‘no added’ claim can contain sugar at similar or even higher levels compared to products which contain added sugar. Prefers option 3, rather than the proposed option 2.
The Cancer Council Western Australia (Terry Slevin)	Public Health - Australia	<ul style="list-style-type: none"> Does not regard ‘no added sugar’ claims as an adequate risk management approach Comments that the ACCC has not taken action to prevent food manufacturers making selective nutrition content claims to create misleading overall impressions that unhealthy food products are healthy.

6.5 Light/Lite

Submitter	Group	Comments
Consumers’ Institute of New Zealand Incorporated (Belinda Allan)	Consumers – New Zealand	<ul style="list-style-type: none"> Accepts that claims about ‘lite’ that relate to properties such as flavour and colour cannot be regulated under Standard 1.2.7. Believes it is important that when a product is claimed as being ‘light’ it should specify what the claim is referring to.
Dietitians Association of Australia (Ms Kate Poyner)	Public Health - Australia	<ul style="list-style-type: none"> Supports the changes to reduce consumer confusion but would like to see the characteristic that makes the food light/lite stated adjacent to the claim.
New Zealand Ministry of Health (Cynthia Maling)	Government – New Zealand	<ul style="list-style-type: none"> Recommends that light/lite nutrient content claims not be permitted on any foods, either with respect to nutrient content or properties such as flavour. Believes existing ‘low’ and ‘reduced’ claims (for fat, sugar and energy) should be adequate descriptors in relation to nutrient content. Comment that these claims should not be permitted for carbohydrates because national dietary guidelines do not recommend reducing carbohydrate intake. Disagrees that claims about ‘lite’ in relation to properties such as flavour or colour cannot be regulated under Standard 1.2.7 or some other standard. Comment that these claims tend to appear on energy dense foods (e.g., oils) and mislead consumers.

Submitter	Group	Comments
The New Zealand Food Safety Authority (Carole Inkster)	Government - New Zealand	<ul style="list-style-type: none"> • Agrees with the rationale to place ‘light/lite’ with each of the ‘reduced’ descriptors, for energy, fat, sodium, sugar, saturated fatty acids, trans fatty acids and cholesterol, in Table to clause 11. • States that light/lite claims are not addressed and while carbohydrate claims per se will not be specifically regulated, that same conditions applied to other properties should also extend to light/lite carbohydrate claims; that is: • a reduction in energy or carbohydrate content of at least 25% compared to a reference food, • the identity of the reference food and the difference in the quantity of the energy or carbohydrate in the claimed food compared to the quantity in the reference food be indicated and • the claim must be presented so that all elements of the claim are in one place. • Suggests that the term ‘light/lite’ is captured in Standard 1.1.1 with a statement made regarding the need to qualify the property of the food to which the term ‘light/lite’ applies wherever it is used. Believes this would prevent misleading ‘light’ claims referring to characteristics other than properties of food which are the subject of nutrition content claims.
ADECRON Food Tech Consulting	Industry – New Zealand	<ul style="list-style-type: none"> • Agrees with the link to ‘reduced’ criteria.
Australian Food and Grocery Council (AFGC) Supported by Simplot	Industry - Australia	<ul style="list-style-type: none"> • Supports proposed approach.
Cadbury Schweppes Pty Ltd	Industry - Australia	<ul style="list-style-type: none"> • Supports that the claim must identify the characteristic that makes the food light, and those conditions for ‘reduced’ claims are met.
Choice – Australia	Consumer - Australia	<ul style="list-style-type: none"> • Supports proposal to allow light/lite claims only on foods meeting the conditions for ‘reduced’ content claims. • Suggests that all ‘light’ claims should have to indicate the characteristic it is ‘light’ in including flavour or colour (as required under CoPoNC) in order to reduce consumer confusion.
Coles Supermarkets	Industry – Australia	<ul style="list-style-type: none"> • Supports the amended drafting for light claims.
Dairy Australia	Industry - Australia	<ul style="list-style-type: none"> • Agrees with retaining ‘light/lite’ as a descriptor of the property of the food. However restricting the use of the claim to only ‘reduced’ criteria, may not necessarily benefit the consumer as they are familiar with the terms ‘lite’ and ‘light’ as products which are lower in fat. • Consumer research by FSANZ (Draft Assessment Report, Attachment 6, p.25) found that consumers who were grouped as ‘inquirers’ viewed the ‘lite’ claim as ambiguous. Thus the FSANZ proposal, requiring the energy or claimed nutrient to be stated in the same place as the ‘lite’ claim, is important. Dairy Australia supports this requirement to enhance consumer understanding. • Also in the previously mentioned consumer research, those consumers who were grouped as ‘less-informed’ regarded the ‘lite’ claim as a way of identifying a healthier version of the product. Many lower fat varieties of milk and yogurt making the ‘lite’ claim do indeed highlight a reduced- or low-fat product, which Dairy Australia believes is a ‘healthier’ choice. • Believes it would be appropriate for FSANZ to reintroduce ‘low-fat’ conditions under CoPoNC, in addition to the ‘reduced’ conditions, for the ‘lite’ claim.

Submitter	Group	Comments
Dairy Farmers	Industry - Australia	<ul style="list-style-type: none"> • Supports the requirement to state the energy or claimed nutrient in the same place as the light claim to reduce consumer confusion, but proposes: <ul style="list-style-type: none"> – retention of light/lite claims for products low in the related nutrient as in The Code of Practice on Nutrient claims. – Where the light/ lite claim is based on a reduced claim, the reference food element of the claim is to be presented with the nutrition information panel • Interpretation of restricting the use of light/lite claims to the applicable reduced claim is that this will change how some foods are currently labelled and recognised by consumers. • For example low fat milk and dairy products often use the light/lite claim along with a 98% fat free claim on front of pack and this would no longer be allowed. A low fat milk product would need to be labelled ‘60% less fat than full cream milk’. We feel this is wordy and adds nothing to consumer understanding. Light and lite are consumer friendly, positive descriptors when consumers understand them, and are applicable for products that are truly low in fat as well as reduced. Consumer research by FSANZ found that consumers largely defined light as ‘low in’. • The need to cite the reference food for a reduced energy or claimed nutrient also has a large impact on label design, the need to redesign labels (and therefore cost) and positive nutrition messages. As an example CoonTM light and tasty cheese already has 25% less fat next to the product name. Adding compared ‘to standard cheese’ will clutter the label, increase the cost of label re-design but is unlikely to improve consumer understanding. The comparison can be appropriately placed close to the nutritional panel.
Department of Health and Human Services - Tasmania	Government - Australia	<ul style="list-style-type: none"> • Supports the use of ‘lite/light’ as a claim descriptor for nutritional properties on foods meeting the conditions for making a ‘reduced’ content claim. • In relation to non nutrition characteristics for example colour, flavour, texture it is suggested that ‘light/lite’ cannot be regulated in Standard 1.2.7 because they do not have a health effect. • Under Standard 1.1.1, ‘claim’ means any statement, representation, information, design, words, or reference in relation to a food which is not mandatory in the Code. Proposal P293 refers to nutrition, health and ‘related’ claims. • ‘Lite/light’ referring to non-nutrition characteristics can be misinterpreted as nutrition and health aspects in the absence of relative remarks to a reference characteristic. • Whether it is in Standard 1.2.7 or an amendment to general labelling provisions, it is believed that ‘light/lite’ should also be required to state the characteristic it refers to adjacent to the descriptor.
Fonterra Co-Operative Group Limited	Industry – Australia & New Zealand	<ul style="list-style-type: none"> • Agrees in-principle to adding ‘lite/light’ nutrition content claims to draft Standard 1.2.7, but believes that the proposed condition that reduction criteria be met does not necessarily benefit the consumer. Suggests that the current CoPoNC criteria for ‘lite/light’ should be retained – consumers are familiar with the current application of these terms and FSANZ has not presented significant evidence or research to justify changing these criteria.
Food and Beverage Importers Association Supported by Unilever Australasia	Industry - Australia	<ul style="list-style-type: none"> • Supports the clarification by FSANZ that light claims be permitted only on foods meeting the conditions for making a reduced claim but to draft the standard so that the restriction is clearly limited to nutritional properties.

Submitter	Group	Comments
Foundation for Advertising Research	Research & Academia – Trans-Tasman	<ul style="list-style-type: none"> • Supports the proposed rules for nutrition content claims; these are sensible and fair. • Considers that having clear definitions for ‘% free’, ‘low’, ‘lite’ etc will be of great assistance to the advertising industry and the Advertising Standards Board (Australia) and Advertising Standards Complaints Board (New Zealand).
Frucor Beverages Ltd	Industry – Trans Tasman	<ul style="list-style-type: none"> • Agrees with the proposed approach.
General Mills Australia Pty Ltd and General Mills New Zealand Ltd Cereal Partners Worldwide	Industry – Trans Tasman	<ul style="list-style-type: none"> • Does not support permission for light claims on foods carrying reduced claims only. • CoPoNC permits foods low in fat for example to be labelled as light. • Requests permission to label foods that are low in something, to be able to make ‘light’ claims. If not, manufacturers will need to re-brand well established products at significant cost. • FSANZ has not appropriately addressed the impact of the changes in relation to low fat products. There are several ‘light’ products on the market that are low fat, e.g. low fat muesli. These claims are more definitive for consumers than reduced claims. • Notes that light can also be considered as an adjective for weight or colour.
Goodman Fielder Limited	Industry – Australia & New Zealand	<ul style="list-style-type: none"> • Has concerns regarding the intent of the statement ‘the claim is presented so that all the elements of the claim are in one place on the label’ as it relates to reduced fat etc claims • Suggests that ‘one place on the label’ could be on the back of a product, but with the key selling point elements of the claim duplicated on the front – require clarification as to whether this is acceptable. • For example, considers that it makes sense for ‘Lite’ claims to be all in one place, given it is unclear what property the claim refers to and currently it can be hard to find the information which may be split between the front of label and Nutrition Information Panel. • However, considers that for a ‘reduced fat’ claim it is immediately obvious that the property of the food is fat, therefore they hope that this can be backed up with the whole claims with the reference food information somewhere else, such as beside of below the NIP.
Kraft Foods Limited	Industry - Australia	<ul style="list-style-type: none"> • Supports the proposed approach.
Nestlé	Industry – Trans Tasman	<ul style="list-style-type: none"> • Does not support permission for light claims on foods carrying reduced claims only. • CoPoNC permits foods low in fat for example to be labelled as light. • Requests permission to label foods that are low in something, to be able to make ‘light’ claims. If not, manufacturers will need to re-brand well established products at significant cost. • FSANZ has not appropriately addressed the impact of the changes in relation to low fat products such as LIGHT & CREAMY ice cream – a low fat ice cream. This brand has been around for many years and we are not aware of any confusion caused to consumers by this product being labelled as ‘light’. The LIGHT & CREAMY brand is not a registered trade mark, so is not subject to the exemptions regarding trade marks. • There are several ‘light’ products on the market that are low fat, e.g. low fat yoghurts. These claims are more definitive for consumers than reduced claims. • Notes that light can also be considered as an adjective for weight or colour.

Submitter	Group	Comments
New South Wales Food Authority	Government - Australia	<ul style="list-style-type: none"> The descriptor 'light/lite' is used as synonymous with the descriptor 'reduced', in common with the use of the terms in CoPoNC. The conditions commonly require 25% less than the reference food – a relative value which seems quite appropriate to the descriptor 'reduced'. However, it was considered that the descriptor 'light/lite' implies an absolute rather than a relative value, and should not be considered synonymous with 'reduced', but considered equivalent to 'low'. Suggest that Standard 1.2.7 is amended to ensure consumers are not inappropriately misled through the assumption that 'reduced' to 'light/lite'
New Zealand Dietetic Association (Jan Milne)	Public Health – New Zealand	<ul style="list-style-type: none"> Support FSANZ's recommended approach
New Zealand Food and Grocery Council (NZFGC) Supported by Unilever Australasia	Industry – New Zealand	<ul style="list-style-type: none"> Supports inclusion of lite claims in the standard but doesn't support lite claims being used only when products meet 'reduced' criteria. There is no consumer research to support the recommendations. Nutrition information panels provide useful information which negates the requirement to meet the 'reduced' criteria. Consumers are used to seeing such claims, substantial re-labelling would be required without significant benefits and the Fair Trading Act can cover concerns about consumers being misled.
Parmalat	Industry – Australia	<ul style="list-style-type: none"> Believes that 'lite/light' claims should be able to be made on 'low fat' products in addition to 'reduced fat' products. Fully supports the amendment to conditions applied at Preliminary Final Assessment removing the requirement under 'reduced claims' for a reduction in a measured quantity of nutrient. Current interpretations of conditions under which 'lite/light' claims can be made would suggest that products labelling 'low fat', providing they achieve a 25% reduction in claimed nutrient compared with reference food, would also be able to carry a 'light/lite' claim. Under these provisions, Parmalat supports FSANZ's recommendations for 'light/lite' claims.
Queensland Health	Government - Australia	<ul style="list-style-type: none"> Understands that 'lite/light' claims that refer to properties of foods such as colour and flavour cannot be regulated under Standard 1.2.7. However, according to FSANZ research consumers still interpret 'lite/light' claims as referring to a nutrition or health-related property of the food even when it is describing a non-nutrient property of the food. Therefore, the changes proposed by FSANZ are only a partial solution to this issue. Requests FSANZ to address misleading labelling of food as 'light/lite' where there refer to non-nutrient characteristics.
SA Department of Health	Government - Australia	<ul style="list-style-type: none"> Recognises that lights claims pertaining to non-nutrients (flavour, colour) cannot be regulated under Standard 1.2.7, but research shows this type of claim is misleading. Information needs to be provided in guidelines by FSANZ to address the enforcement of this misleading labelling.
Sanitarium Australia/New Zealand	Industry – Australia/New Zealand	<ul style="list-style-type: none"> Supports proposal.

Submitter	Group	Comments
South Australia Department of Health	Government - Australia	<ul style="list-style-type: none"> • Recognises that light claims pertaining to non-nutrient flavour or colour characteristics cannot be regulated under Standard 1.2.7. • However, there is a common misconception that the ‘light’ claim when used to describe flavour or colour characteristics refers to a nutrition or health-related property, supported by consumer research conducted by FSANZ. • Information needs to be provided in the guidelines by FSANZ to address the enforcement of misleading labelling of a food as ‘light/lite’ where these refer to non-nutrient characteristics.
Unilever Australasia	Industry – Trans Tasman	<ul style="list-style-type: none"> • This claim is currently used very effectively for products that qualify for low claims and FSANZ have not provided any evidence to demonstrate consumers find this confusing. • An example of products that would be affected are current ranges of Lite products that have been so popular that the standard ranges of products are no longer available, making comparative claims quite difficult. • The solution to this has been to further reduce the featured quality of the product to meet the ‘Low’ criteria. Having to change the sub-range name of a product (Lite/Light) is significant requiring changes to barcodes and agreement by the retailer to re-range. This could result in these product ranges no longer being available for consumers.
Winemakers Federation of Australia	Industry – Australia	<ul style="list-style-type: none"> • States the definition of wine in the Code is restricted to ‘the product of the complete or partial fermentation of fresh grapes, or a mixture of that product and products derived solely from grapes’ greater than 8 % alcohol’. • Claims wine has a typical median alcohol level of 12-13%, but typically varies between 11-16%. • Suggests permitting ‘light’ claim for wine products between 1.15 and 8% alcohol. • Notes that alcohol levels in wine vary much more than for beer on which the standard appears to be based. • Failure to permit such a reference value would prevent use of ‘light’ for wine products, providing a consuming disadvantage and preventing the industry from marketing the product to encourage responsible drinking. • Indicates that may present this proposal ‘formally’ to FSANZ

6.6 Conditions for ‘increased’ claims

Submitter	Group	Comments
Dietitians Association of Australia (Ms Kate Poyner)	Public Health - Australia	<ul style="list-style-type: none"> • Supports Option 1 as recommended by FSANZ
Food Technology Association of Victoria Inc (David Gill)	Industry - Australia	<ul style="list-style-type: none"> • Supports option 1 as recommended by FSANZ
Private (Jack Ward)	Consumer - Australia	<ul style="list-style-type: none"> • Supports Option 1 as recommended by FSANZ

Submitter	Group	Comments
The New Zealand Food Safety Authority (Carole Inkster)	Government - New Zealand	<ul style="list-style-type: none"> • Supports option 1 as recommended by FSANZ • Suggests increased carbohydrate claims need to be addressed in a similar manner as for 'light/lite/ carbohydrate claims i.e. there should be a 25% increase in the carbohydrate content as compared to a reference food. • States that the use of nutrition information panel values to both verify certain health claims and to determine the eligibility of food vehicles to carry health claims places significantly increased importance on these values being correct and on the ability to enforce them.
Goodman Fielder Limited	Industry – Australia & New Zealand	<ul style="list-style-type: none"> • Welcomes the change to the definition of 'reference food' but are concerned over the conditions for increased claims. • Notes that under the current proposal the reference food is required to be a 'source' of the nutrient. However, note that in the case the proposed criteria for fibre nutrition content claims this would eliminate fibre 'increased' white bread from being compared to standard white bread, as the latter would not meet the requirement for a 'source' claim.
Fonterra Co-Operative Group Limited	Industry – Australia & New Zealand	<ul style="list-style-type: none"> • Endorses the proposed approach.
MasterFoods Australia New Zealand	Industry – Australia & New Zealand	<ul style="list-style-type: none"> • Supports the AFGC opinion that the criteria for increased should be 25% more than nominated reference material
Cadbury Schweppes Pty Ltd	Industry - Australia	<ul style="list-style-type: none"> • Supports a minimum of 25% of the declared nutrient above that required to make a 'source' claim.
Coles Supermarkets	Industry – Australia	<ul style="list-style-type: none"> • Supports the reference food to meet the criteria for 'source of' protein/fibre for an 'increased' claim.
Department of Health and Human Services - Tasmania	Government - Australia	<ul style="list-style-type: none"> • Supports option 1 – to require the reference food to be a 'source' of fibre/protein.
Department of Human Services - Victoria	Government - Australia	<ul style="list-style-type: none"> • Supports Option 1 – retaining the requirement that the reference food be a source of fibre/protein. As indicated under 'Approach at Draft Assessment', the identity of the reference food needs to be stated together with the claim.
Queensland Health	Government - Australia	<ul style="list-style-type: none"> • Supports option 1 in regards to the conditions for 'increased' claims.

6.7 Definition of ‘reference food’

Submitter	Group	Comments
Dietitians Association of Australia (Ms Kate Poyner)	Public Health - Australia	<ul style="list-style-type: none"> • Supports FSANZ’s preferred option but notes that there are inconsistencies in food groupings throughout the Food Standard which may make the selection of an appropriate reference food difficult, for example are wholegrains a seed and therefore able to be compared to nuts? Can legumes be used as a reference food for both meat and vegetables? • Concerned that the food groups are too broad and are inconsistent with the foods that score ‘V’ points in the nutrient profiling method. Specifically: <ul style="list-style-type: none"> – The intention of the provisions on comparative claims is that foods being compared with respect to one factor are nutritionally similar or substitutes for each other in the diet so the consumer can make choices between nutritionally similar foods. The foods in group d) are not sufficiently similar nutritionally to meet this requirement. For instance, a claim that a seed, for instance, has higher fibre content than meat, would be potentially misleading if the consumer was led towards choosing the seed as a meat alternative without recognition of the limitations of seeds as sources of protein, iron and zinc. – As wholegrains are technically seeds, there is potential confusion as to where a wholegrain product should sit – presumably this will be in the cereal products group, but DAA would like to see this clarified to ensure it is not misinterpreted that wholegrains can be used in nutritional comparisons against meats etc. This also necessitates the provision of a definition for wholegrain. – In the nutrient profiling method, fruit and vegetable points are awarded for content of fruits, vegetables, nuts, coconut, spices, herbs, fungi, seeds and legumes. In this instance, the similar nutritional profile/benefits of nuts, legumes and seeds have been recognized, yet the food group definitions combine nuts, seeds and legumes with meat, seafood and eggs. • Questions whether it is necessary to restrict products that have had modifications or formulation changes from making comparisons against another product that has also been modified in regards to the same nutrient or energy. For example, claims between low fat yoghurts or low fat yoghurt and diet yoghurt. According to the definition for reference foods as cited above, manufacturers will have to compare these modified products to a non-modified product, which could exaggerate the comparison claim and therefore mislead consumers.
Food Technology Association of Victoria Inc (David Gill)	Industry - Australia	<ul style="list-style-type: none"> • Supports option 2 as recommended by FSANZ
New Zealand Ministry of Health (Cynthia Maling)	Government – New Zealand	<ul style="list-style-type: none"> • Strongly disagrees with option 2, which allows a food in the same food group to make a comparative claim. Believes this approach clearly favours industry by allowing inappropriate comparisons that will mislead consumers. • Comments that the four food groups identified were developed for a different purpose; are very diverse, and there are no objective criteria to determine what a reasonable substitution is. • Recommends returning to the option proposed at draft assessment, as this avoids inappropriate comparisons and is less likely to mislead consumers. • Agrees with the requirement for the reference or comparison food to be clearly identified on the label.
Private (Jack Ward)	Consumer - Australia	<ul style="list-style-type: none"> • Supports Option 2 as recommended by FSANZ

Submitter	Group	Comments
Goodman Fielder Limited	Industry – Australia & New Zealand	<ul style="list-style-type: none"> • Welcomes the change to the definition of ‘reference food’.
Australian Self Medication Industry	Therapeutic - Australia	<ul style="list-style-type: none"> • Concerned with what could be encompassed by ‘dietary substitutes’ as it is not clear this is restricted to foods. Suggests that it would be inappropriate for any food to make a comparison to products that are regulated under the Therapeutic Goods Act 1989, and believes a specific prohibition to this effect should be stated.
Fonterra Co-Operative Group Limited	Industry – Australia & New Zealand	<ul style="list-style-type: none"> • Endorses and agrees with the principle of the proposed approach, but suggests further widening the definition of dietary substitutes to reflect current dietary consumption patterns, where a dietary substitute is not necessarily within the same food group as defined in the draft standard. The currently proposed definition may cause some difficulty in interpretation by food manufacturers and for enforcement agencies.
George Weston Foods Limited	Industry - Australia	<ul style="list-style-type: none"> • Seeks clarification of the meaning of ‘same type’ and recommends that this applies to comparison of products across meal occasions e.g. a comparative claim related to the protein content of a breakfast meal could be made, such as baked beans on toast versus a fruit smoothie. Such claims could assist consumer in understanding equivalent substitutes to be implemented in line with their taste preferences and dietary requirements. • Recommends clarification on this definition in terms of the meaning of ‘<i>not been further processed, formulated, reformulated or modified to increase or decrease the energy value or the amount of the nutrient that is the subject of the comparison</i>’. This appears to restrict comparative claims to whole foods only, which have not undergone any processing, formulation or modification.
Nu-Mega Ingredients Pty Ltd	Industry - Australia	<ul style="list-style-type: none"> • Legumes should be included in the fruit and vegetable group of the ‘food group’ definition. • Legumes are most commonly consumed as a vegetable. • Not including legumes in this group is inconsistent with the inclusion of legumes in V points in the nutrient profiling criteria.
Parmalat	Industry – Australia	<ul style="list-style-type: none"> • Supports option 2, relating to clarifying the definition of a reference food and options for comparing dietary substitutes, however recommends clarification of products defined as ‘milk alternatives’ in the definition of ‘food group’. • Considers that the current definition of ‘reference food’ lacks clarity and is open to interpretation, making it difficult for industry to take full advantage of these claims, and for enforcement agencies to manage compliance. • Has interpreted the current wording under item (c) ...<i>milk alternatives</i>’ to include ‘milk product alternatives’ capturing not only beverage analogues but also analogues of yoghurts, desserts and cheeses.
The National Heart Foundation of Australia (Anne-Marie Mackintosh)	Public Health - Australia	<ul style="list-style-type: none"> • Supports Option 2 • Pleased the definition has been reworded to replace ‘equivalent’, ‘regular’ and ‘category of food’. • Raises the issue in relation to meat and meat alternative groups which encompasses protein rich foods from animal and plants. States this may be disadvantageous to plant –based foods with respect to comparative statements as their protein content is often lower than animal-based foods. Recommends that the food group for meat and meat alternatives be re-examined.

Submitter	Group	Comments
The National Heart Foundation of New Zealand (Anna Malan)	Public Health – New Zealand	<ul style="list-style-type: none"> • Supports Option 2 • Pleased the definition has been reworded to replace ‘equivalent’, ‘regular’ and ‘category of food’. • Raises the issue in relation to meat and meat alternative groups which encompasses protein rich foods from animal and plants. States this may be disadvantageous to plant –based foods with respect to comparative statements as their protein content is often lower than animal-based foods. Recommends that the food group for meat and meat alternatives be re-examined.
The New Zealand Food Safety Authority (Carole Inkster)	Government - New Zealand	<ul style="list-style-type: none"> • Supports option 2 with regards to the definition of reference food, as recommended by FSANZ
ADECRON Food Tech Consulting	Industry – New Zealand	<ul style="list-style-type: none"> • Agrees with the proposed definition. • Suggests bread and cereal products are split as comparing biscuits with bread is not realistic or relevant.
Australian Food and Grocery Council (AFGC) Supported by Simplot	Industry - Australia	<ul style="list-style-type: none"> • Accepts the proposed changes but recommends further changes to the definition. • Definition is restrictive and does not conform to the intent, which is to compare within categories, between foods. • Part (a) of the proposed wording does not permit foods to be compared with other foods that have already been altered nutritionally. • Restricts the comparison to nutrients by excluding biologically active substances. • Recommends part (a) is amended to clarify the intent of the definition and to include ‘or biologically active substance’ after ‘the amount of the nutrient’. • FSANZ does not justify the food groups in the definition of ‘food group’. The groups differ to those in the Australian Guide to Healthy Eating and FSANZ should ensure consistency with appropriate Australian and NZ food and nutrition policy documents.
Cadbury Schweppes Pty Ltd	Industry - Australia	<ul style="list-style-type: none"> • Does not support the revised definition. • Agrees that the reference food must be of the same type as the food making the claim, the reason that claims are being made may be because there has been additional processing to alter the nutrient or energy profile to provide the point of difference.
Coles Supermarkets	Industry – Australia	<ul style="list-style-type: none"> • Supports clarification of the definition of ‘reference food’ and additional option for comparing dietary substitutes. • Notes that by adding the definition of ‘food group’ this may limit the use of these statements. • Recommends that section 5.9.6.1 be included in the user guide for clarity.

Submitter	Group	Comments
<p>Confectionery Manufacturers of Australasia (CMA) Limited</p> <p>Supported by CMA New South Wales, CMA Victorian Branch, CMA Queensland Branch, CMA NZ Branch and CMA South Australian Branch, International Confectionery Association</p>	<p>Industry – Trans Tasman</p>	<ul style="list-style-type: none"> • Agrees that reference foods should be of the same type as the food making a claim. • Does not agree with amended definition as it ignores the fact that a claim may be the result of additional processing, reformulation or modification to a product’s nutrient or energy profile to create differentiation.
<p>Dairy Australia</p>	<p>Industry - Australia</p>	<ul style="list-style-type: none"> • FSANZ has clarified the definition of a ‘reference food’, therefore Dairy Australia supports Option 2, but seeks clarification about the definition of food groups and that food composition tables can still be used to define the reference food. • The definition of food groups is defined as those used in Australian and New Zealand food and nutrition guidelines, which includes ‘Milk and milk products and milk alternatives’ (PFAR, p.81, p.153). However in the rescinded Australian Guide to Health Eating – the dairy group is defined as ‘Milk, yogurt, cheese’. • FSANZ should ensure consistency with appropriate Australian and New Zealand policy documents.
<p>Dairy Farmers</p>	<p>Industry - Australia</p>	<ul style="list-style-type: none"> • Proposes that comparative claims for milk and milk products not be extended to milk substitutes but be limited to milk and milk products only. • Proposes that comparative claims be extended to vitamins and minerals if a source or good source is claimable. • Proposes that if comparative claims are extended to substitutes, then there is a need for further definition potentially based on nutritional profile and/or usage (e.g. drinks or snacks group). • Dairy Farmers has concerns with the proposed definition of comparative claims. The claims are proposed to be extended to foods that can be substituted for one another as well as foods of the same type. <ul style="list-style-type: none"> – The definition of food groups is defined as those used in Australian and New Zealand food and nutrition guidelines, but it is unclear what is a milk alternative. It is the only food not defined in the food groups in the proposed standard (p.153). In the Australian Dietary Guidelines substitutes are based on calcium intake and include fish with bones, almonds, and calcium fortified breakfast cereal as well as soy beverages. In the Australian Guide to Healthy Eating only fortified soy beverage is listed. – It is not in the interests of public health and milk/dairy intake to allow a comparison say between a soy or rice beverage and milk solely on the basis of saturated fat intake. The fact that comparative claims are not allowed for vitamins and minerals potentially disadvantages milk and dairy as it does not allow nutrient density or the complexity of these natural foods to be taken into account.

Submitter	Group	Comments
		<ul style="list-style-type: none"> - Substitution of alternatives for milk is often done inappropriately and can compromise nutrient intake. There is a large body of literature that suggests calcium intake is compromised in those that avoid milk, and that lactose intolerance is inappropriately managed. Allowing comparisons on pack – which by definition is likely to denigrate the value of milk - is counter-productive to public health. - If substitute claims are permitted then definition is required. Consumers may understand substitute on the basis of usage or food occasion as well as or rather than nutritional content. It can be argued that milk, as well as being a food, should also be able to make claims as a drink. Milk is acknowledged as a drink as well as a food group in Australian food and nutrition guides. Dietary Guidelines recommend water and milk as the recommended drinks for children and acknowledge that soft drinks and juice are inappropriately substituted for milk. An Australian tea manufacturer currently gives information on fluid intake on pack which includes a recommendation for 2 glasses of milk a day. However on p.80 a comparison between milk and juice is specifically mentioned as inappropriate. In this context it is equally important that comparative claims be extended to vitamins and minerals.
Department of Health and Human Services - Tasmania	Government - Australia	<ul style="list-style-type: none"> • Supports Option 2 defining descriptors and reference value in the Code. • Notes that the food groupings in the Standard may make the selection of an appropriate reference food difficult (refer to proposed definition of ‘food groups’). • The determination of appropriate dietary substitutes is still very subjective. Comparison particularly within the (d) meat, seafood, eggs, nuts, seeds and legumes group could support inappropriate comparisons. Believes that more guidance is required in this area. • FSANZ has identified this as a risk regarding potential for misleading consumers but has not identified a risk management strategy.
Department of Human Services - Victoria	Government - Australia	<ul style="list-style-type: none"> • Supports Option 2; however a further stipulation needs to be that the reference food is clearly identified together with the claim. This will ensure consumers are not misled by inappropriate comparisons.
Fruco Beverages Ltd	Industry – Trans Tasman	<ul style="list-style-type: none"> • Agrees with option to include dietary substitutes. • Food group (b) should also include the description ‘juiced’ in the list of examples.
General Mills Australia Pty Ltd and General Mills New Zealand Ltd Cereal Partners Worldwide Nestlé	Industry – Trans Tasman	<ul style="list-style-type: none"> • Further modification is necessary to ensure the definition covers a wider range of food. There are two issues: <ul style="list-style-type: none"> - The proposed wording for part (a) appears to only permit comparisons to be made with foods that have not been modified nutritionally in any way. This would seem to mean that foods could not be compared with other foods that have been already altered nutritionally e.g. reduced in fat, reduced in sodium. - The proposed wording does not seem to allow for comparative claims regarding biologically active substances. • The definition of food group needs to be based on generally accepted food groups rather than bringing another variation. The Australian Guide to Healthy Eating groups fruit separately, includes legumes in with vegetables and also with meat, poultry, seafood and nuts. The Australian Dietary Guidelines also groups foods together in a particular way.
Kraft Foods Limited	Industry - Australia	<ul style="list-style-type: none"> • Supports the proposed approach.
New South Wales Food Authority	Government - Australia	<ul style="list-style-type: none"> • Questions the boundaries of the term ‘same type’ included in the definition. • Further detail is required on the scope of these words.

Submitter	Group	Comments
New Zealand Food and Grocery Council (NZFGC) Supported by Unilever Australasia	Industry – New Zealand	<ul style="list-style-type: none"> • Supports proposed changes to the definition but it is still too restrictive. • The definition should permit comparisons with foods that have already been altered nutritionally. • Does not permit comparisons about biologically active substances.
Queensland Health	Government - Australia	<ul style="list-style-type: none"> • Supports option 2 in regards to the ‘reference food’ definition. • As stated under ‘Approach at Draft Assessment’ the identity of the reference food must be stated and the difference in quantity of the claimed nutrient in the claimed food compared to the content of the reference food must be indicated.
SA Department of Health	Government - Australia	<ul style="list-style-type: none"> • Definition does not clarify whether composite foods which usually contain components of several food groups can be compared, e.g. a reduced fat pizza to a pie. • An editorial clarification of appropriate comparisons for composite foods would assist interpretation.
South Australia Department of Health	Government - Australia	<ul style="list-style-type: none"> • Considers that the recommendation that ‘comparisons between ‘dietary substitutes’ will be limited to comparisons between foods in the same food group’ does not clarify the situation in regards to composite foods which usually contain components of several food groups e.g. can a reduced fat pizza be compared to a pie? • An editorial clarification of appropriate comparisons in the case of composite foods would assist both industry and regulators in interpretation.
General Mills Australia Pty Ltd and General Mills New Zealand Ltd Cereal Partners Worldwide Nestlé	Industry – Trans Tasman	<ul style="list-style-type: none"> • The conditions are worded in such a way that it appears that there is a need to state the difference between the amounts of the claimed nutrient in the food and the reference food rather than the percentage difference. • CoPoNC requires a statement of comparison and this is usually worded as a percentage difference. This type of claim is understood by consumers. • Suggests that the percentage difference is permitted to be stated and wording of CoPoNC is adopted, i.e. ‘There must be a statement of comparison with the reference food.’ This should also apply to ‘diet’ claims and weight loss or maintenance claims.
Goodman Fielder Limited	Industry – Australia & New Zealand	<ul style="list-style-type: none"> • Considers it is unclear why FSANZ has proposed the grouping and recommends consistency with appropriate Australian and New Zealand Food and Nutrition policy documents, for example – the Australian Guide to Health Eating (1998) is often quoted and defined food groups differently.

7. GLYCEMIC INDEX/GLYCEMIC LOAD

Submitter	Group	Comments
Cadbury Schweppes Pty Ltd	Industry - Australia	<ul style="list-style-type: none"> • Supports that GI claims don’t have to be linked to an endorsement. • Recommends that the Australian Standards GI Standard should be referenced in the criteria for a GI claim in the table to clause 11. • Supports use of proposed nutrient profiling scoring criteria for low GI claims.

Submitter	Group	Comments
<p>Australian Food and Grocery Council (AFGC)</p> <p>Supported by Simplot and Unilever Australasia</p>	Industry - Australia	<ul style="list-style-type: none"> • Recommends that GI claims be exempt from the nutrient profiling criteria. • GI is an index and more closely resembles a content claim in the form of the carbohydrate content. • Application of the nutrient profiling criteria discriminates against low serve sizes which can legitimately produce a low GI. • Foods which might fail the proposed nutrient profiling discriminator may be able to meet the endorsing organisations classification criteria and legitimately carry a GI trademarked symbol, which is outside the Standard.
<p>Confectionery Manufacturers of Australasia (CMA) Limited</p> <p>Supported by CMA New South Wales, CMA Victorian Branch, CMA Queensland Branch, CMA NZ Branch and CMA South Australian Branch, International Confectionery Association</p>	Industry – Trans Tasman	<ul style="list-style-type: none"> • Supports that GI claims don't have to be linked to an endorsement. • Recommends that the Australian Standards GI Standard should be referenced in the criteria for a GI claim in the table to clause 11. • Does not support use of proposed nutrient profiling scoring criteria for GI claims.
Kraft Foods Limited	Industry - Australia	<ul style="list-style-type: none"> • Rejects the proposed approach for GI. • Although a method has now been obtained, there is still a lot of debate over the value of the measure and the methodology is debated by overseas experts. • GL has been suggested as offering a better understanding of the physiological response to food. • If scientists do not agree, then messages to consumers will be confusing. As regulation is meant to be based on sound science, they are surprised that FSANZ is permitting claims in this area.
<p>New Zealand Food and Grocery Council (NZFGC)</p> <p>Supported by Unilever Australasia</p>	Industry – New Zealand	<ul style="list-style-type: none"> • Supports use of GI descriptors on foods not linked with an endorsement. • Does not support use of nutrient profiling criteria for GI claims. • GI is an index more closely identified with content. • Proposed approach could be discriminatory on small serve size products and products meeting endorsement requirements.

Submitter	Group	Comments
Palatinit GmbH	Industry - international	<ul style="list-style-type: none"> • Isomalt has been shown to have a very low effect on blood glucose levels and insulin levels (references provided) and a GI of 2 has been determined based on a gram-to-gram comparison with glucose as a reference. However, the Standards Australia GI Standard only allows completely available carbohydrates in the GI testing and polyols such as isomalt are excluded. • Therefore polyols are excluded from GI type claims whereas they can significantly contribute to reach a lower glycaemic and insulinemic profile. • The criteria should permit glycaemic claims for polyol-containing foods.
Palatinit GmbH	Industry - international	<ul style="list-style-type: none"> • GI of isomaltulose is 32; it has same energy as sucrose and similar sweetness profile to sugar, therefore can be used to produce a low GI food without losing the technical properties derived from sugar. • Application of nutrient profiling criteria to GI claims would result on a ban on low GI claim on products in which low GI sugars have been substituted for sucrose, even when low fat. Manufacturers would therefore be unlikely to use this ingredient, denying consumers the opportunity to purchase low GI alternatives. • Claims referring to the glycaemic properties of a food should not be limited to GI claims. • Claims using describing words, figures/graphical representations should be possible which would be an easier way to illustrate the claim to consumers.
ADECRON Food Tech Consulting	Industry – New Zealand	<ul style="list-style-type: none"> • Agrees with application of nutrient profiling criteria. • Agrees with permission to use descriptors, e.g. low. • Being required to use a certified test presents a significant economic barrier to small companies, as the tests are very expensive and not that consistent or reliable. • A limit of 10g carbohydrates for testing makes it hard for practically sugar free foods to be tested, even if they are genuine replacements for commonly high sugar foods.
Coles Supermarkets	Industry – Australia	<ul style="list-style-type: none"> • Supports the proposed approach including the method of determining GI being referenced to the Australian Standard.
Frucor Beverages Ltd	Industry – Trans Tasman	<ul style="list-style-type: none"> • Agrees with the proposed approach. • Permitting use of descriptors is useful to consumers. • Manufacturers investing in labelling will already be obtaining testing via an accredited lab such as the Glycaemic Research Group, Department of Human Nutrition, University of Otago. • The nutrient profiling criteria will disqualify products (beverages) high in sugar
General Mills Australia Pty Ltd and General Mills New Zealand Ltd Cereal Partners Worldwide Nestlé	Industry – Trans Tasman	<ul style="list-style-type: none"> • Support permission for the use of descriptors. • Does not support the treatment of GI as a health claim. GI is a nutrition content claim but is being treated as a higher level claim. • GI is an index. It more closely resembles a content claim in that it is the form of the carbohydrate content that generates the GI.

Submitter	Group	Comments
General Mills Australia Pty Ltd and General Mills New Zealand Ltd Nestlé	Industry – Trans Tasman	<ul style="list-style-type: none"> Small serve size nutrient dense products, e.g. portion controlled snack products that provide a valuable contribution to the diet, are unable to make a low GI claim even though they may be low GI.
Heinz Australia and Heinz Wattie’s (Heinz)	Industry – Trans Tasman	<ul style="list-style-type: none"> Supports the use of a GI number and descriptor, even if not an endorsement. Set criteria are needed for a fair playing field and ease of consumer use of the claim. Agrees the product must pass the nutrient profiling criteria.
Department of Health and Human Services - Tasmania	Government - Australia	<ul style="list-style-type: none"> Supports option 2 on GI claims including generic nutrient profile eligibility criteria.
New South Wales Food Authority	Government - Australia	<ul style="list-style-type: none"> Suggests that food labels bearing GI information are required to state the range of GI the claim is applicable to, in conjunction with the actual GI value of the food. An example is a food with a GI of 52, by definition a ‘low GI’ food; however this food will have a significantly greater ability to elevate blood glucose levels than a similar food with a GI of 15. Unsure the consumer will understand the difference between the blood glucose elevating capacity of these two foods as both may be labelled as ‘low GI’ foods. Objects to the concept of medium GI. Considers the range of medium GI to be too narrow to be useful for assisting consumers to make informed purchase decisions. Prefers that foods are labelled as either low GI or high GI.
Dairy Australia	Industry - Australia	<ul style="list-style-type: none"> Supports Option 2 to permit GI descriptors to be included in the nutrition information panel. Companies should not be obligated to subscribe to an endorsement programme, despite the GI Symbol programme being beneficial and widely used. The descriptors are useful to enhance consumer understanding of the GI numerical value, not only for diabetes management, but also for sports nutrition and weight management via appetite control (Foster-Powell and Brand Miller, 1994) Notes that a standard analytical method of testing GI has been finalised. The requirement for the GI value to be present in a claim or in the nutrition information panel is reasonable. It provides a level playing field for manufacturers, encourages all companies to be responsible and assists with enforceability.
Department of Human Services - Victoria	Government - Australia	<ul style="list-style-type: none"> Supports option 2 – and approves that foods carrying the GI claim have to fit with generic nutrient profile eligibility criteria.
Queensland Health	Government - Australia	<ul style="list-style-type: none"> Acknowledges that Glycemic Index (GI) is a useful tool for the selection of carbohydrate foods for health improvement. However, concerns are raised in regards to the validity of classifying GI as a nutrition content claim on several grounds: <ul style="list-style-type: none"> GI is a measurement of a physiological response, not an analytical measurement of a chemical component in food. The Australian Standard for GI measurement AS4694-2007, proposed as the method for assessing GI for labelling, lacks the precision of standard chemical analysis due to intersubject variation in glycemic response. This lack of precision makes it a ‘blunt instrument’, only allowing within some food categories, statistically significant distinction between foods of widely different GI values.

Submitter	Group	Comments
		<ul style="list-style-type: none"> – Consumers may choose foods based on very small differences in reported GI that in reality may not have different GI values when considered on a population basis. • On the above basis, it is proposed that GI claims be reclassified as general level health claims, requiring a more robust statistical analysis of GI data. In addition, it is proposed that only broad classes of GI (i.e. low, medium and high) are quoted rather than the specific GI numbers. For example, in order to qualify as a low GI food, the upper 95% confidence interval of the GI values would need to fall on or below the low GI cut off of 55.
Campbell Arnott's Asia Pacific	Industry - Australia	<ul style="list-style-type: none"> • Recommends the removal of scoring criteria from GI content claims. • Inclusion of scoring criteria will unfairly discriminate against products with substantiated GI benefits that do not meet the proposed scoring criteria. Such products may deliver positive GI benefits but would be precluded from providing such consumer information. Furthermore, it would promote the use of proprietary GI symbol usage that does not require the scoring criteria to use a GI symbol and would severely erode the credibility of such disqualification criteria and potentially mislead consumers. • For example, some products within the Arnott's Snack Right range are low GI, tested to the Australian Standard for Glycemic Index of foods. Such products, while delivering a proven health benefit, would be excluded from providing such information with respect to the GI to consumers unless we were to pay for the commercial endorsement.
Dairy Farmers	Industry - Australia	<ul style="list-style-type: none"> • Supports option 2. • Descriptors of low, medium and high are important for consumer understanding. • Linking GI claims to nutrient profiling is appropriate as GI is a 'health' attribute of food.
Meat and Livestock Australia	Industry - Australia	<ul style="list-style-type: none"> • Agrees with the proposal to allow these claims but believes the claim should not be isolated to a particular food. E.g. replacing protein with carbohydrate will lower the Glycemic Load of a meal.
Choice – Australia	Consumer - Australia	<ul style="list-style-type: none"> • Supports the application of nutrient profiling criteria to foods making GI claims and use of Standards Australia Standard. • Believes claim should include both descriptor and value in same place on the label. Concerned that FSANZ is proposing that the GI value could be on label without the descriptor which could cause confusion amongst consumers with little knowledge of GI.
Crop & Food Research	Research and Academia – New Zealand	<ul style="list-style-type: none"> • Recommends that drafting should not be restricted to GI as may impede the introduction of new improved values. Claims blood glucose response of foods and not just carbohydrates is more meaningful as takes into account on food composition and amount eaten. • Suggests Glycemic Impact is more useful as takes into account the amount of food as well as carbohydrate type. • Definition of Glycemic Index has been proposed as 'the weight of glucose that would induce a glycemic response equivalent to that induced by a given amount of food'. • Glycemic Load another concept which describes the GI and the quantity of carbohydrate in a meal of diet simultaneously • Suggests that provided Glycemic Impact and/or Glycemic Load are validated, claims related to these measures should be allowed. Can be expressed on per serve/100g basis unlike GI. (suggested values for low, medium and high claims for Glycemic Impact and Glycemic Load are provided)

Submitter	Group	Comments
		<ul style="list-style-type: none"> • Claims that the Standards Australia Standard for GI is highly variable (coefficients of variation around 30%) and researchers are investigating ways to reduce this. Until more consistent and reliable results can be achieved, recommend that no standard is given as a method of analysis. (Data are presented indicating the variability of GI values) • Supports the application of nutrient profiling criteria to foods with GI claims • Supports the permission of low, medium and high descriptors
Glycanz	Research and Academia – Australia/New Zealand	<ul style="list-style-type: none"> • Glycanz – research alliance between NZ Crop & Food and CSIRO Food Futures National Research Flagship which aims to develop new carbohydrate foods with defined health benefits • Claims GI test is at variance to normal dietary practice where individuals eat portions of foods based on size and not nutrients in them • Attempt has been made to reconcile GI data to standard practice by use of glycemic load whereby data are normalized with the amounts of available carbohydrate in a meal. However glycemic load values are still derived from GI and so are limited • Claims GI intrinsically impractical and often counterintuitive. E.g. rice cakes have high GI based on consumption of > 70 g but individuals may only eat 1 or 2 cakes at a time. Also often foods high in energy are low GI. • American Association of Cereal Chemists and Glycanz a removing to develop more user-friendly measures to remove such anomalies • Criticises GI testing methodology: <ul style="list-style-type: none"> – use of human volunteers expensive and requires ethical approval which slows down development of new foods – sample size and quality of data as considerable inter- and intra-individual variation – available carbohydrate is seldom measured directly but calculated by difference. Standards Australia specifies that available carbohydrate be measured directly but this ignores the contribution of resistant starch, not digested in the small intestine. This is emerging as a significant contributor to human health. • Food standard needs to allow for future developments in this aspect of food science/nutrition. • Considers GI and GL values are impractical and flawed and not helpful to consumers. New measures based on foods eaten are under development. Believes FSANZ should reconsider its position and ensure that any new measures are permitted.
Lifestyle Foods Research Programme (joint group of industry with Crop & Food Research NZ)	Research and Academia – New Zealand	<ul style="list-style-type: none"> • Supports Crop and Food submission • Believes new standard should permit claims to be made on the glycemic response of food that correlates with serving size • Supports use of nutrient profiling criteria
Sanitarium Australia/New Zealand	Industry – Australia/New Zealand	<ul style="list-style-type: none"> • Supports the use of a standard method for GI and use of values and descriptors • Suggests GI not be regulated as a content claim. Those products with the endorsement will enable products not meeting the criteria to carry a GI claim. However the self-imposed guidelines for product acceptability (under the symbol scheme) should promote use of GI on reasonably healthy products but there is nothing to prevent these being changed at a later point.

Submitter	Group	Comments
Consumers' Institute of New Zealand Incorporated (Belinda Allan)	Consumers – New Zealand	<ul style="list-style-type: none"> • Supports Option 2 as recommended by FSANZ • Believes any GI claim should also state both the number and relevant 'low', 'medium', or 'high' descriptor.
Food Technology Association of Victoria Inc (David Gill)	Industry - Australia	<ul style="list-style-type: none"> • Supports option 2 as recommended by FSANZ
New Zealand Ministry of Health (Cynthia Maling)	Government – New Zealand	<ul style="list-style-type: none"> • Does not support glycaemic index (GI) content claims, even if the criteria for eligible foods are more stringent than for other nutrient claims. • Comments that the GI content claim was developed as a commercial enterprise, and has not been demonstrated to be helpful or meaningful to consumers. • States that GI labelling does not take into account the carbohydrate content of the food, other macronutrients in the food, serving size, and does not account for the fact that foods are usually eaten as part of mixed diet.
Private (Jack Ward)	Consumer - Australia	<ul style="list-style-type: none"> • Supports Option 2 as recommended by FSANZ
The New Zealand Food Safety Authority (Carole Inkster)	Government - New Zealand	<ul style="list-style-type: none"> • Supports Option 2 as recommended by FSANZ • Suggests a small change be made to the format of the GI declaration in the nutrition information panel given in Clause 4.5 of Attachment 1 (pg 181). The boxed area at the bottom of the nutrition information panel should be extended across the whole nutrition information panel rather than being restricted to the first column only.
Dietitians Association of Australia (Ms Kate Poyner)	Public Health - Australia	<ul style="list-style-type: none"> • Supports Option 2 as recommended by FSANZ
Glycemic Index Symbol Program (Alan Barclay)	Public Health - Australia	<ul style="list-style-type: none"> • Supports Option 2 as recommended by FSANZ • In particular, support the requirement that foods making claims about GI should meet the generic nutrient profile eligibility criteria. • Due to the lack of an Australian Standard for Glycemic Load (GL), and the potential for the use of this term to be misused (1), believes that Standard 1.2.7 should be amended to contain a clause specifically prohibiting the use of Glycemic Load claims on foods or beverages; at least until an Australian Standard for its accurate determination, and for appropriate descriptors of low, medium and high GL foods and beverages, is put in place. <p>(1)Barclay AW, Brand-Miller JC, Wolever TM. Glycemic index, glycemic load, and glycemic response are not the same. Diabetes Care 2005;28:1839-40.</p>
New Zealand Dietetic Association (Jan Milne)	Public Health – New Zealand	<ul style="list-style-type: none"> • Support FSANZ's recommended approach

Submitter	Group	Comments
Mrs. Mac's	Industry – Australia	<ul style="list-style-type: none"> • Believes FSANZ is imposing an arbitrary structured diet on the market by excluding some products from making nutrient claims (for example GI), where that product does in fact, have a benefit consumers should have a right to know about. • For example, Mrs. Mac's biggest selling product 'the Mrs. Mac's Traditional Beef Pie' is now precluded from claiming 'low GI' because it does not qualify under the Nutrient Profiling Calculator.
Murray Goulburn Co-operative	Industry – Australia	<ul style="list-style-type: none"> • Supports the inclusion of Glycemic Index descriptors.
Parmalat	Industry – Australia	<ul style="list-style-type: none"> • Supports option 2 that GI claims can use descriptors low, medium and high without being linked to an endorsement. • The conditions under which a claim may be made would seem appropriate in protecting consumers from misleading claims relating to Glycemic Index.
Fonterra Co-Operative Group Limited	Industry – Australia & New Zealand	<ul style="list-style-type: none"> • Endorses FSANZ's proposed approach. Support that proposal that products making a 'GI' claim meet the nutritional profiling criteria and use the Australian Standard Analytical Method for testing GI – this provides a level playing field for food manufacturers and assists with enforcement.
Goodman Fielder Limited	Industry – Australia & New Zealand	<ul style="list-style-type: none"> • Supports permissions for the terms low, medium and high in conjunction with GI claims and that these claims do not have to be linked to an endorsement. • Questions whether FSANZ's intention was that all foods including those regulated under Standard 1.2.9 will be able to bear GI claims as long as they meet the generic nutrient profile eligibility criteria. Do not support this intention, instead recommending that GI is considered a content claim (as it is an Index) rather than a health claim. • Suggest that even with the Standards Australia method there could be an unequal favouring of the Sydney University GI endorsement programme which could be anticompetitive.
Food and Beverage Importers Association Supported by Unilever Australasia	Industry - Australia	<ul style="list-style-type: none"> • Supports that GI claims using descriptors don't need to be related to an endorsement, and that descriptors are permitted in accordance with values provided in the Standard.
Unilever Australasia	Industry – Trans Tasman	<ul style="list-style-type: none"> • Objects to foods indicating the GI being required to pass the profiling tool. See AFGC submission for further detail.

8. WEIGHT LOSS/MAINTENANCE CLAIMS

Submitter	Group	Comments
AB Food and Beverages Australia Pty Ltd	Industry - Australia	<ul style="list-style-type: none"> • Does not support the proposed criteria for weight management claims. The criteria are inconsistent with criteria for Formulated Meal Replacements (Standard 2.9.3) which require no less than 850 kJ per serve. • It would be very difficult for a Formulated Meal Replacement to meet the weight management criteria unless a large serve although one of the main objectives is to provide a nutritionally balanced option to replace a main meal for weight management purposes. Query the consistency between the two Standards and the basis on which low joule criteria have been recommended. • Criteria should be on a per serve basis as this is how the product is consumed and portion control is a large part of weight management. • Energy should not be the sole basis for the criteria. This places incorrect emphasis on individual foods and insufficient emphasis on the total diet and food intake. • Criteria should be removed and such claims should rely on sound scientific evidence for substantiation. If not, they seek an exemption from the qualifying criteria for formulated meal replacements (recognising the need for the claim to be substantiated and meet the nutrient profiling criteria).
Australian Egg Corporation Limited	Industry - Australia	<ul style="list-style-type: none"> • Does not support the proposed conditions. • The criteria only allow low kJ processed foods to make these claims which disadvantages whole foods. • Weight loss/maintenance claims should be permitted for 'primary foods'.
Australian Food and Grocery Council (AFGC) Supported by Simplot and Unilever Australasia	Industry - Australia	<ul style="list-style-type: none"> • Recommends that FSANZ reconsider the criteria for weight management claims in order to move away from the simplistic concept of energy reduction and to recognise satiety. • Recommends the criteria be removed for weight management claims and that such claims rely on sound scientific evidence for their substantiation, similar to other general level health claims. • A weight management claim can be substantiated through the satiety effect of proteins or specific fibre fractions, although such foods may not meet the proposed criteria. Requiring 40% less energy from foods in the same food group which are inherently similar in terms of their nutrient profile and quality is difficult, particularly in the breads and cereals and meats and alternatives groups. • Supports the removal of additional criteria (reduction in absolute energy content).
Australian Nut Industry Council	Industry - Australia	<ul style="list-style-type: none"> • Concerned that weight related claims will be restricted to low energy processed foods. • It may be misleading to consumers to see weight claims on 'diet' products only, as they may believe they need to eat these foods to lose weight. • The available evidence does not support the exclusion of nuts in the diet of those trying to lose or maintain weight (references provided). • Recommends the conditions for making weight maintenance claims be changed to enable foods to make weight maintenance claims in the context of a balanced diet and a healthy lifestyle that includes exercise, i.e. natural raw foods with minimal processing, e.g. fruits, vegetables, fungi, nuts and seeds in their raw and unadulterated state are exempt and permitted to make diet and weight maintenance claims.

Submitter	Group	Comments
		<ul style="list-style-type: none"> If the above exemption is not acceptable, recommends stating that those foods aforementioned can be allowed to make permitted claims in relation to set serving size e.g. 'A 30g serve of nuts can be included in a weight management diet as part of a healthy lifestyle that includes regular physical activity, as nuts are a good source of fibre and protein which can assist appetite control.'
Cadbury Schweppes Pty Ltd	Industry - Australia	<ul style="list-style-type: none"> Supports application of nutrient profiling criteria to weight management and diet claims. Supports deletion of minimum reduction in energy. Suggests requirements for diet claims are listed in the table to clause 12, as the only difference is in the wording conditions.
Community and Public Health, Canterbury District Health Board	Public Health – New Zealand	<ul style="list-style-type: none"> Concerned that foods could claim they are assisting with weight management but are technically energy dense foods. This concern is justified by a statement made in the Sugar Research Advisory Service document Nov 2001 and updated Oct 2004, named 'Sugar and Our Diet': 'Using artificial sweeteners is one of the strategies used in weight management and weight reduction. However, scientific evidence indicates that substituting sugar free products for sugar rich foods in the diet does not always significantly reduce total daily energy intake in normal healthy adults (<i>Int J Food Sci Nutr 2000 Jan;51(1):59-71 The effects of sugar-free vs. sugar-rich beverages on feelings of fullness and subsequent food intake, Holt SH et al</i>). The real reduction in total energy content is likely to be modest and the satiating power of the food containing them may actually be reduced, leading to the consumption of energy dense foods at a later time. This statement illustrates that a low energy food does not necessarily assist in weight management, and can lead to an overall food intake being higher in calories. Recommends individual foods are not to have any reference to assisting with weight reduction. This recommendation is verified by the fact that any food eaten in excess has the potential to contribute to weight gain.
Horticulture Australia Limited (HAL)	Industry - Australia	<ul style="list-style-type: none"> Does not support proposed criteria. This excludes many fruits, starchy vegetables, legumes and nuts that can contribute to weight loss as part of a balanced diet. Misleading to consumers to see weight claims on 'diet' products as they may believe they need to eat such foods to lose weight. Approach disregards principle of weight loss or maintenance, that it is based on energy balanced with exercise, not the individual food. Proposes that provision for weight loss or maintenance claims are not made.
Kraft Foods Limited	Industry - Australia	<ul style="list-style-type: none"> May be appropriate to apply the 'diet' criteria but require scientific substantiation for a weight management claim based on the impact of the food on satiety.
New Zealand Food and Grocery Council (NZFGC) Supported by Unilever Australasia	Industry – New Zealand	<ul style="list-style-type: none"> Supports option 2 but provision should be included for foods, other than low joule foods, that play an effective role in weight management.

Submitter	Group	Comments
SA Department of Health	Government - Australia	<ul style="list-style-type: none"> • Weight loss claims should not be permitted as no one food can contribute to weight loss. • If permitted, they should be considered as high level claims where reference to overweight (biomarker) or obesity (serious disease) is made and the link between consumption and weight loss would need to be substantiated. • Evidence suggests the public makes an automatic link between weight management and obesity, whether the word is used or not.
ADECRON Food Tech Consulting	Industry – New Zealand	<ul style="list-style-type: none"> • Agrees strongly with now permitting diet claims for 40% reduced energy to get ‘real’ foods included, rather than just ‘empty calorie’ lolly water and similar.
Coles Supermarkets	Industry – Australia	<ul style="list-style-type: none"> • Supports permission for and regulation of weigh management claims. • Supports proposed approach regarding criteria for diet and weight management claims, to permit a wider range of foods to carry these claims. • Suggests that as qualifying criteria for reduced energy content allows weight management claims on foods that may still be relatively high in energy, the requirement to declare the importance of exercise could be considered for these foods too. • Recommends the definition of ‘weight management’ in Section 6.2.2 of the PFAR is included in the user guide.
Frucor Beverages Ltd	Industry – Trans Tasman	<ul style="list-style-type: none"> • Agrees with the proposed approach.
General Mills Australia Pty Ltd and General Mills New Zealand Ltd Cereal Partners Worldwide Nestlé	Industry – Trans Tasman	<ul style="list-style-type: none"> • Recommends that FSANZ reconsider the criteria for weight management claims to move away from the simplistic concept of energy reduction and recognise the role of satiety through the consumption of high fibre, protein or specific fibre foods. • Some foods may not meet the specified criteria but scientific substantiation may support weight management claims, e.g. rolled oats are rich in fibre and have a low GI, meaning they can play a significant role in a weight management program, so claims on these types of products should be permitted. • Agrees with the removal of the additional criteria for the absolute reduction in energy.
Department of Health and Human Services - Tasmania	Government - Australia	<ul style="list-style-type: none"> • Does not support weight management claims as no single food is intrinsically essential or more suitable for weight management. • In the event that weight management and diet claims being accepted, supports that they should meet qualifying criteria for low energy or have 40% less energy than the same quantity of a reference food. Concerns over appropriate reference foods were raised elsewhere.
New South Wales Food Authority	Government - Australia	<ul style="list-style-type: none"> • Suggests that FSANZ clearly advise consumers of the dual criteria for the application of weight management claims, i.e. compliance with the definition of ‘low energy’ or having 40% less energy than the same quantity of reference food. • Further suggests that labels bearing weight management claims advise consumers as to which criteria has been utilised by the manufacturer to make the claim.

Submitter	Group	Comments
South Australia Department of Health	Government - Australia	<ul style="list-style-type: none"> • Still opposed to permissions for weight loss claims since no one food can reasonably be expected to contribute to weight loss. • If permitted, weight loss claims should be considered as high level claims where reference to overweight (as biomarker) or obesity (serious disease) is made and would need to substantiate the specific link between consumption and weight loss. • Evidence suggests that the general public makes an automatic link between weight management and the disease state, obesity, whether the word is used or not.
Department of Human Services - Victoria	Government - Australia	<ul style="list-style-type: none"> • Supports option 2 that diet claims should be treated as weight management claims and that the two claim types be required to meet the same criteria. • Also supports that weight management claims be considered general level health claims, and claims mentioning obesity are treated as high level health claims.
Queensland Health	Government - Australia	<ul style="list-style-type: none"> • Agrees that diet claims should be treated as weight loss claims and that the two types of claims be required to meet the same criteria, although Queensland's position remains that weight loss claims should not be permitted. • If permitted, weight loss claims need to be regulated as high level claims where reference to overweight (as a biomarker for obesity) or obesity (serious disease) is made. This would require substantiation of the specific link between consumption and weight loss.
Campbell Arnott's Asia Pacific	Industry - Australia	<ul style="list-style-type: none"> • Recommends the removal of scoring criteria from energy diet content claims. • Firmly believes the strict requirements for making a diet content claim in the table to clause 11 are sufficient to ensure appropriate use of this claim without adding the complexity of scoring criteria.
Dairy Australia	Industry - Australia	<ul style="list-style-type: none"> • Strongly supports the inclusion of weight management and diet claims and agree with the removal of the requirement for an absolute reduction in energy. The majority of dairy companies support Option 2. • However, the proposed qualifying criteria of at least 40% less energy, or to meet the conditions for 'low energy' claims of no more than 80 kJ per 100 mL for liquid food and 170 kJ per 100 g for solid food, will disqualify many skim and low-fat milks and yoghurts. • Low-fat dairy foods are suitable for weight reducing diets and are recommended by health professionals for substitution into a low kilojoule diet. They are important foods for dieters to assist with reaching the recommended intake of protein, vitamins and minerals in a relatively small energy (kJ) load of food and are healthy, lower kilojoule alternative to many calorie laden snacks and desserts. • Recommends FSANZ consider an alternative whereby the lower energy choices of food within the core/main food groups be eligible to carry weight management claims. These foods support the FSANZ approach to base a claim on reduction in calorie content (PFAR, p.93). For example, within the dairy group, this would be no-fat, low-fat and reduced-fat varieties of milk, yoghurt and cheese, as long as their total energy content is lower than that of the regular-fat varieties. Within the fruit and vegetable group, fresh whole fruit would be eligible to carry weight management claims, but fruit juice and dried fruit would not, as they are higher in energy. • FSANZ should also consider criteria which recognise positive nutrients that may assist with weight management, such as protein which is associated with satiety.

Submitter	Group	Comments
Dairy Farmers	Industry - Australia	<ul style="list-style-type: none"> • Supports option 2 – the widening of criteria for foods that can make weight management claims in allowing skim milk and low fat diet yoghurts to make claims. • Disappointed that palatable nutritious alternative to skim milk, such as SHAPE™ will be unable to make a claim e.g. this product has a 26% reduction in energy over full cream milk. • This highlights the anomaly that some core foods, including fruits and vegetables, are unable to make a weight management claim.
Meat and Livestock Australia	Industry - Australia	<ul style="list-style-type: none"> • Does not support the qualifying criteria as food does not necessarily need to be ‘low calorie’ to assist with weight management. For example, low fat protein foods which are not necessarily ‘low calorie’ will aide satiety and support weight loss (<i>references provided</i>)
Simplot Australia Pty. Ltd.	Industry - Australia	<ul style="list-style-type: none"> • The proposed criterion limits the ability to make statements about the satiating effect of some foods due to their protein and specific fibre type contents and their role in weight management. • These foods may not meet the criteria for ‘low energy’ claims or ‘contain at least 40% less energy compared with the same quantity of reference food’ • Weight management entails more than just weight loss and ‘diet claims’. It includes weight maintenance and potentially weight gain claims.
Choice – Australia	Consumer - Australia	<ul style="list-style-type: none"> • Does not support weight management claims since it is the overall diet and lifestyle that is vital to weight management. Claims potentially overstate the role of individual foods in weight management. • Believes ‘overweight’ should be included within the definition of biomarker as being overweight is a biomarker for obesity which is considered a serious disease. Given the seriousness of Australia’s rates of overweight/obesity, is important that claims related to either condition are treated as high level claims.
Sanitarium Australia/New Zealand	Industry – Australia/New Zealand	<ul style="list-style-type: none"> • Does not support proposal that will restrict foods from bearing these claims to those that comply with the criteria for ‘low joule’ foods • Believes the proposed conditions for weight maintenance claims recognize the scientific evidence regarding the consumption of a range of foods in promoting healthy weight • Proposed conditions prevents whole foods such as wholegrain foods and legumes from making claims • Recent Australian study (Go Grains Health & Nutrition, 2007) concluded that diets high in wholegrain foods could help maintain a healthy weight. <i>Cites other references supporting this.</i> • Fruits and vegetables should also not be excluded from being promoted as suitable foods for those watching their weight • Also are links between nutrients such as fibre and protein and weight management through impact on satiety • Recommends that claims for weight maintenance (not weight loss) be regulated as a general level health claim, without proposed conditions regarding energy content

Submitter	Group	Comments
Sunbeam Foods	Industry – Australia	<ul style="list-style-type: none"> Does not support the conditions proposed to only allow foods <170 kJ/100 g or that contain 40% less energy than a reference food to make general level health claims about weight loss or weight maintenance. This only allows low kJ processed foods to make such claims despite the key principles that it is a kJ-controlled diet overall that is necessary for maintaining weight which would include other foods. Claims current approach disadvantages nutritious foods that can contribute to a balanced diet and could mislead consumers to believe they need to eat ‘diet’ foods to lose weight Suggests weight loss claims should be permitted for ‘whole foods’ including fresh and dried fruit, vegetables, nuts and that conditions for making weight maintenance claims be changed to enable claims to be made in the context of a balanced diet and healthy lifestyle that includes exercise.
Food Technology Association of Victoria Inc (David Gill)	Industry - Australia	<ul style="list-style-type: none"> Supports option 2 as recommended by FSANZ, but suggests reviewing the wording to reflect that the term ‘diet’ can refer to weight maintenance or weight increase.
Consumers’ Institute of New Zealand Incorporated (Belinda Allan)	Consumers – New Zealand	<ul style="list-style-type: none"> Believes that weight management claims should be prohibited. Comments that attributing ‘slimming’ properties to single foods is misleading and could potentially overstate the role of individual foods in weight management. States it also promotes the good food/bad food model rather than the total diet message.
New Zealand Ministry of Health (Cynthia Maling)	Government – New Zealand	<ul style="list-style-type: none"> Strongly opposes both weight management claims (as general level health claims) and ‘diet’ claims (as content claims). Believes these claims are misleading because no one food is the solution to weight management or weight loss. Comment that it is complete duplicity for industry to support these claims when they say ‘there are no unhealthy foods only unhealthy diets’. Believes that if weight management claims are permitted, then weight gain warnings should also be permitted. Comments that any such claims should be required to meet substantiation criteria for high level health claims, with convincing evidence to show that consumption of the food was linked weight loss, and not other foods or lifestyle behaviours.
Private (Jack Ward)	Consumer - Australia	<ul style="list-style-type: none"> Supports Option 2 as recommended by FSANZ
The New Zealand Food Safety Authority (Carole Inkster)	Government - New Zealand	<ul style="list-style-type: none"> Supports option 2 as recommended by FSANZ
Dietitians Association of Australia (Ms Kate Poyner)	Public Health - Australia	<ul style="list-style-type: none"> Does not support weight management and diet claims on food. Appreciates that FSANZ has tried to deal with inconsistencies between weight management and diet claims. Comments that foods such as fruit and vegetables will not be able to make such claims as they will not meet the criteria of 40% less energy than a reference food, yet these foods make up a significant part of many weight management programs. Believes industry will have access to many other claims that will provide useful information to consumers interested in selecting lower energy density foods such as; reduced energy, reduced fat, no added sugar.

Submitter	Group	Comments
The National Heart Foundation of Australia (Anne-Marie Mackintosh)	Public Health - Australia	<ul style="list-style-type: none"> • Partly supports Option 2, supports the criteria for foods making weight management claims or ‘diet’ nutrition content claims are required to meet the qualifying criteria for ‘low energy’ or must have 40% or less energy as the same quantity of a reference food. The criterion of a minimum reduction of energy of 170 kJ/100 g of food, or 80 kJ/100 mL of liquid food does not apply to ‘diet’ nutrition content claims or weight management claims. • Comments that currently worded, the proposed approach seems to favour processed foods which can be modified in energy, and other nutrients, by reformulation and fortification, and can thus be compared to a reference food. What is the reference food to a fresh apple, avocado or handful of raw almonds? State that many of these fresh primary produce foods would not meet the ‘low joule’ criteria nor have a reference food counterpart. • Recommends that the conditions be such that natural raw foods with minimal processing e.g. fruits, vegetables, fungi, nuts and seeds in heir raw and unadulterated state (including certain processing i.e. chopped, halved, sliced, cut, diced, slivered, dry roasted, and dried are exempt and permitted to make diet and weight maintenance claims. • If the above exemption is not acceptable, recommend to state that those foods aforementioned can be allowed to make permitted claims in relation to serving size and/or per 100g.
The National Heart Foundation of New Zealand (Anna Malan)	Public Health – New Zealand	<ul style="list-style-type: none"> • Believes diet and weight management claims should be prohibited on the basis that no one food constitutes a ‘diet’ and no single food can prevent weight gain or assist people to lose weight • Comments that currently worded, the proposed approach seems to favour processed foods which can be modified in energy, and other nutrients, by reformulation and fortification, and can thus be compared to a reference food. What is the reference food to a fresh apple, avocado or handful of raw almonds? State that many of these fresh primary produce foods would not meet the ‘low joule’ criteria nor have a reference food counterpart.
New Zealand Dietetic Association (Jan Milne)	Public Health – New Zealand	<ul style="list-style-type: none"> • Believes that foods should not be able to carry a weight management or diet claim as no food has this property intrinsically and to allow consumers to believe that one food can contribute positively to weight loss efforts is misleading. • Believes that it is acceptable that a food could help to lower energy intake and the macronutrient that is reduced, can be claimed e.g. low fat/sugar/energy though believe that this claim would be very confusing for the majority of consumers.
Murray Goulburn Co-operative	Industry – Australia	<ul style="list-style-type: none"> • Supports the inclusion of weight loss or maintenance claims as general level claims.
Parmalat	Industry – Australia	<ul style="list-style-type: none"> • Supports option 2 enabling foods to make weight management claims or ‘diet’ nutrition content claims based on a percentage reduction in energy from the reference food. • Notes this will allow continuity of claims for dairy products such as skim milk and diet yoghurts that currently play an important role in weight management programmes.

Submitter	Group	Comments
Fonterra Co-Operative Group Limited	Industry – Australia & New Zealand	<ul style="list-style-type: none"> • Endorses and agrees with the principle that weight management and diet claims be allowable under the proposed qualifying criteria. • Supports the principle underlying the requirement for labels to carry statements regarding ‘balanced diets’ and ‘exercise’ statements, but believes these requirements should be voluntary. Notes that anecdotal evidence suggests these broad statements mean vastly different things to different people, and suggests there is a large percentage of the population that has no awareness of the Australian/New Zealand Dietary Guidelines. Considers that formats that allow more detailed information and explanation of messages - such as TV, radio, magazines and the internet – would be more appropriate channels than food labels. Considers that public health professionals have the skills, expertise and credibility to be key leaders for such public health messages. • Also note that food labels have insufficient space to add all of this information.
Go Grains Health and Nutrition Limited	Industry - Australia	<ul style="list-style-type: none"> • Recommends removing the reference to ‘weight maintenance’ from this claim and refer to diet products for weight loss only. • Does not agree that weight loss and weight management claims be restricted to foods that comply with the conditions for making a low energy claim or that are 40% lower in energy compared to a reference food. • It is misleading to consumers for weight claims to be exclusively on ‘diet’ products. • This also means that only processed foods can carry a weight management claim which clearly is inappropriate. • Most grain-based foods, including bread, contribute to a healthy balanced diet suitable for weight loss/maintenance but do not meet the ‘low joule’ criteria. Reducing the kilojoule content of bread by 40% in order to make weight related claims is inappropriate and likely to have adverse nutritional consequences since it is more likely to be more achieved using refined ingredients rather than wholegrain, and result in products with lower satiety. • Oats and other wholegrain and high fibre foods provide satiety benefits and high fibre benefits relevant to weight management.
Kellogg (Aust) Pty Ltd	Industry - Australia	<ul style="list-style-type: none"> • Supports the classification of weight management claims as general level health claims and the need for a statement about the importance of exercise. • Does not support the requirement for the food making these claims to meet the additional qualifying criteria and therefore opposes option 2. • The additional qualifying criteria focus unnecessarily on energy density alone and fail to recognise the current available evidence for methods for weight loss and weight management. • As foods in the same food group are inherently similar in terms of their nutrient profile and quality, the majority of foods within the same food group do not reach the 40% less energy criteria. • The Australia Dietary Guidelines and Australian Guide to Healthy Eating provide a recommended approach to achieve healthy weight, and the foods suggested within these approaches should be able to carry claims with regard to weight management. • Supports the need for such claims to be made in the context of the total appropriate diet and for the exercise statement. • Reasons for disagreeing with the proposed qualifying criteria are (see submission page 12 for further detail about each reason):

Submitter	Group	Comments
		<p>I. Not reflective of scientific evidence. Successful weight loss and maintenance can be achieved by a number of different dietary approaches such as manipulating fat, carbohydrate and protein intake, not just by choosing low energy dense foods.</p> <p>II. Limited nature of the definition of reference food.</p> <p>III. Qualifying criteria limits the types of foods that could potentially carry weight management claims. The ‘reduced energy’ criteria and definition of reference food limit the products that can make weight management claims to those that have been reduced in fat or made with artificial sweeteners, thus disadvantaging products high in fat or that cannot have artificial sweeteners, e.g. breads and cereals. If all foods are not treated equally in their ability to make weight management claims, this may give the wrong impression to the consumer about these foods.</p> <ul style="list-style-type: none"> Proposes that the use of weight management claims is based solely on scientific substantiation, as is the case of all other general level health claims, and not be subject to additional non scientific qualifying criteria.
Nu-Mega Ingredients Pty Ltd	Industry - Australia	<ul style="list-style-type: none"> Supports the proposed options for conditions of general level health claims relating to weight loss and management.
Unilever Australasia	Industry – Trans Tasman	<ul style="list-style-type: none"> Object to the proposed conditions for weight management and diet claims. See AFGC submission for further detail.

9. NUTRIENT PROFILING SCORING CRITERIA

Submitter	Group	Comments
<p>Australian Beverages Council Ltd</p> <p>Supported by Unilever Australasia</p>	Industry - Australia	<ul style="list-style-type: none"> Questions the validity of the adoption of the UK model without apparent adequate consideration of effects to the diets of the overall population, considering the initial model was developed for the purposes of advertising to children. The PFAR does not give adequate information on what modelling and considerations have been given because of this. Does not support development of a model contrary to current scientific opinion. The compensation of nutritional negatives with nutritional positives does not have any scientific basis. This tool is a modification of an existing system used for a different purpose and will promote inconsistency with the rest of the world. Concerned at the low level of sugar adopted (<4.5 g). Standard 2.6.2 gave the limit of <7.5 g/100 mL as a healthier option. This tool has only recently been developed and it has not formed part of the substantiation process for these claims. The proposed criteria give products with less than 335 kJ/100 mL, zero baseline points. Therefore question the appropriateness of then requiring water based beverages to then contain less than 4.5 grams of sugar per 100 mL which provides just 76.5 kJ of energy, far less than the limit of 335 kJ for category 2 and category 3 products, which may have little nutritional variation to category 1 products. Recommends the adoption of 7.5 g of sugar per 100 mL of beverage. Will provide consistency in the Code.
Australian Food and Grocery Council (AFGC)	Industry - Australia	<ul style="list-style-type: none"> Recommends that disqualifying criteria are removed and that health claims be permitted on all foods for which a substantiated health claim can be made. Not withstanding its opposition to requiring disqualifying criteria, and in the event that FSANZ persist with this non-

Submitter	Group	Comments
Supported by Simplot		<p>science based proposal, recommends that:</p> <ul style="list-style-type: none"> – a table for energy per serve be incorporated into the profiling tool to permit health claims on small serve size foods with low energy per serve (bonus points for energy per serve); – the word ‘wholegrain’ be included in schedule X as follows: Fruits, vegetables, nuts, coconut, spices, herbs, fungi, seeds, wholegrain and legumes; – consideration be given to milk analogues derived from cereals being in category 2; and – all liquid milks be in category 2, including liquid yoghurts, and modified, flavoured and functional milks. <ul style="list-style-type: none"> • Approach is evidence free/non-science based, with the sole purpose of ensuring certain foods cannot make general level health claims, while creating exemptions for other foods. • Attaches a full analysis to submission of the distortions caused by nutrient profiling. • Notes Policy Guideline stated that ‘claims can be made providing the eligibility criteria, including qualifying and/or disqualifying criteria.... are complied with.’ • Small serve sizes which may deliver a substantiated claimable benefit within that serve are discriminated against. Propose bonus points for energy per serve: <ul style="list-style-type: none"> – <150 kJ – 6 points – <300 kJ – 5 points – <600 kJ – 4 points – <900 kJ – 3 points – <1200 kJ – 2 points – <1500 kJ – 1 point • A grain is a seed according to dictionary meaning, so wholegrain is a seed and should be counted in V points. • The system is silent on analogues. Soy analogues as defined in Standard 1.3.2 are not considered and therefore fall into category 1 if liquid, which may not be the intent.
Australian Nut Industry Council	Industry - Australia	<ul style="list-style-type: none"> • Nutrient composition data for macadamia nuts needs to be updated in NUTTAB. • Using current NUTTAB data macadamia nuts score 5 which would prevent them from carrying health claims; however, using recent data they score 4. • Macadamia oil does meet the nutrient profiling criteria.
Cadbury Schweppes Pty Ltd	Industry - Australia	<ul style="list-style-type: none"> • Supports the move to per 100 g/mL basis. • Has tested the calculator and found it easy to use. • Concerned that there are no credit points for wholegrains. • Concern that it favours certain foods, e.g. cream cheese (category 3 food) over milk chocolate (category 2 food).

Submitter	Group	Comments
<p>Confectionery Manufacturers of Australasia (CMA) New South Wales Branch, Victorian Branch, South Australian Branch, Queensland Branch, NZ Branch, International Confectionery Association</p>	<p>Industry – Australia</p>	<ul style="list-style-type: none"> • All foods should be eligible for a claim, when it can be scientifically substantiated (except alcohol and kava). • Confectionery, whilst having a small contribution to the overall diet, is a valid (treat) and a nutritious food which has the potential to deliver greater benefit in the overall diet and complement other foods. • Confectionery is as appropriate as any other product for the carriage of health claims. • Denying the confectionery industry the ability to make health claims on their products, wrongly promotes the notion of ‘good’ and ‘bad’ foods. • New scoring criteria may stifle product innovation in the confectionery industry, when global public health policy is calling for industry to offer alternative ‘healthier’ foods, something which regulators seem to be failing to deliver. • Confectionery industry is keen to provide consumers with relevant information about diets and role of treat foods.
<p>Confectionery Manufacturers of Australasia (CMA) Limited</p> <p>Supported by CMA New South Wales, CMA Victorian Branch, CMA Queensland Branch and CMA South Australian Branch, CMA NZ Branch, International Confectionery Association</p>	<p>Industry – Trans Tasman</p>	<ul style="list-style-type: none"> • All foods should be eligible for a claim, when it can be scientifically substantiated. • FSANZ is incorrectly applying national recommendations about the overall diet to individual foods and by design intentionally discriminates against foods it considers inappropriate, specifically noting biscuits and confectionery. Is now even more disproportionate given a per 100 g approach. • Confectionery, as treat food has an acknowledged and legitimate place and contribution to a balanced diet. Public health policy encourages innovation by industry, including confectionery industry; however, by prohibiting health claims, FSANZ is ignoring the views of the confectionery sector. • If the nutrient profiling criteria are used, the criteria should be modified to permit other suitable foods that are prohibited by the calculation, e.g. a category 3 food such as cream cheese which has a fat and sodium content comparable to confectionery, will have 28 points and be eligible to carry a health claim, whereas chocolate, which may contain antioxidants, fruit and nuts can have 25 points and be ineligible. • Points for small portion serve sizes should be factored in. Supports the AFGC system for bonus points for energy per serve.
<p>Horticulture Australia Limited (HAL)</p>	<p>Industry - Australia</p>	<ul style="list-style-type: none"> • Notes concern re macadamia nuts, when using NUTTAB 2006 data, which is 20 years old, they score 5. • When using 2002 data (composite data from Queensland and NSW macadamia growers) they score 4, therefore macadamia industry will use 2002 data and ensure this is reflected in the nutrition information panel.
<p>Kraft Foods Limited</p>	<p>Industry - Australia</p>	<ul style="list-style-type: none"> • Rejects the proposed approach because: <ul style="list-style-type: none"> – The criteria lack a firm scientific base. They were developed to include some products but exclude others, based on a few parameters and the assumption that everyone has the same health concerns. Some foods which supply nutrients fall outside the criteria. – The criteria lack credibility. FSANZ has attempted to address the foods that fall out that should be in, but exceptions will still be found, creating adverse publicity, e.g. Vegemite. – The rationale for the criteria is based on diets, whereas regulations are based on foods. This assumes everyone has the same health concerns. Accurate information will assist consumer to select foods appropriate to their needs and artificial barriers should not be imposed.

Submitter	Group	Comments
		<ul style="list-style-type: none"> - The criteria do not take serve size or role of the food into consideration. - Criteria are unnecessary to limit inappropriate claims. The Trade Practices Act is the appropriate place to challenge inappropriate claims. - The criteria will hamper innovation. • Application of the nutrient profiling criteria to nutrition content claims would be a retrograde step. E.g. Light Philadelphia is promoted as having 30% less fat than regular cream cheese. Although it meets criteria for edible oil spread (category 3 food) it is sold as cream cheese and therefore cannot claim to be in category 3. If these criteria applied to nutrition content claims this product may not appear on the market.
<p>New Zealand Food and Grocery Council (NZFGC)</p> <p>Supported by Unilever Australasia</p>	<p>Industry – New Zealand</p>	<ul style="list-style-type: none"> • Agrees that the regulatory system should promote responsible use of claims, but that providing the claim can be substantiated and nutrition information is on the label, this provides for responsible use of claims. • Proposal for adopting nutrient profiling is of concern because: <ul style="list-style-type: none"> - It perpetuates the categorisation of foods as good and bad with conflicts with nutrition principles and could have adverse effects on individuals’ nutritional needs. - The 100 g/mL approach does not consider the quantity in which the product will be consumed in one serving. - It discriminates against foods with small serving sizes. - It is complex and will require substantial education. - It will be a disincentive for smaller manufacturers to adopt health claims and will fetter innovation. - Will preclude many foods with positive attributes for which a health claim can be made.
<p>Palatinit GmbH</p>	<p>Industry - international</p>	<ul style="list-style-type: none"> • The nutrient profiling criteria should not exclude isomaltulose-based foods, i.e. either: <ul style="list-style-type: none"> - exempt isomaltulose from the calculation of baseline points or - designate isomaltulose to contribute 0 baseline points, for non-cariogenic and related dental claims, and GI claims only, or - exempt isomaltulose from the definition of sugars within the Code. • The criteria fail to consider novel sugars such as isomaltulose (expected to be approved as a novel food soon under A578), which can be used in place of sucrose and other common sugars but with substantial health related benefits such as being non-cariogenic, tooth friendly and low GI. • A summary of the properties of isomaltulose and examples of its use is attached to the submission. • There is extensive data that would substantiate a health claim about dental health on foods in which isomaltulose has been substituted for cariogenic sugars. • Isomaltulose is a disaccharide carbohydrate and therefore a sugar, so the nutrient profiling criteria preclude any food in which isomaltulose is in from carrying a health claim. Manufacturers would therefore be unlikely to use this ingredient, denying consumers the opportunity to purchase non-cariogenic alternatives.

Submitter	Group	Comments
SA Department of Health	Government - Australia	<ul style="list-style-type: none"> • Commends FSANZ on the work done and supports the format and principle of allowing points for positive nutrients. • Supports a system that provides common criteria across food products rather than category based. • Does not support coconut, fruit juice or concentrated fruit juice being able to get V points. The intention was to make allowances for nutrient dense primary foods, whereas coconut is high in saturated fat, and fruit juice has been linked to obesity and dental caries. • All nutrition content claims should be subject to disqualifying criteria. Notes evidence reported by the American Dietetic Association supporting this recommendation (Sarah Colby).
<p>Australian Food and Grocery Council (AFGC)</p> <p>Supported by Simplot</p>	Industry - Australia	<ul style="list-style-type: none"> • Attachment 1 – Arguments against Nutrient Profiling. The attachment includes much detail around the following points: <ul style="list-style-type: none"> – Nutrient profiling is contrary to the concept of a balanced diet; – Micronutrient imbalances in some population groups could be exacerbated; – The key is consumer education; – Individuals vary in their nutrient requirements; – Nutrient profiling is discriminatory; – Positive attributes of the food are ignored; – There are ethnic and cultural differences between countries as to what constitutes a ‘healthy diet’. – Food safety could be compromised (impact of reduction in salt and/or sugar on microbiological growth). – Nutrient profiling would be confusing for the consumer and unworkable in practice. – Take care to do no harm – a simplified system for consumers to assess foods can be dangerous and lead to inaccurate interpretations by consumers. • The Attachment concludes that profiling: <ul style="list-style-type: none"> – does not fulfil any need; – lacks a firm scientific base; – adds costs and complexity to industry; – lacks credibility; – is unnecessary to limit inappropriate claims; – hampers innovation; and – the rationale for profiling is based on whole diets, whereas regulations are about foods.
ADECRON Food Tech Consulting	Industry – New Zealand	<ul style="list-style-type: none"> • Great balanced approach and much fair than previous approach. • Practically all products scored aligned well with my judgement of them being healthy/less healthy. Already have convinced customers to reformulate products to a healthier score. It works! • 100 g basis is clear cut and not open to serve size manipulation. Contribution of small serve size foods to a healthy diet is minimal and she can’t see what the fuss about small serve sizes is about. Allowing small serve sizes will create confusion and possibly abuse e.g. 1t of butter may suddenly be acceptable. • Suggest to subtract the current scores from 90 to arrive at a positive score (can’t use 100 as has already found product scoring minus 6) and change pass marks accordingly. Having a lower = better score goes against the grain.

Submitter	Group	Comments
		<ul style="list-style-type: none"> • May need to consider extending the points range for all foods, in line with category 3 foods, to get a uniform scoring system. • Possible that a single score system like this can then be used as an alternative to signposting or traffic lighting. Single score is much easier to understand and forces balanced reformulations to achieve healthier foods. Then foods within a product range can be compared at the supermarket in one blink when looking at the points. • Recommends a definition of ‘concentrated’ is included, e.g. no less than twice the total solids level of the original product, and otherwise it may be abused, e.g. slightly concentrated juices using double points.
Coles Supermarkets	Industry – Australia	<ul style="list-style-type: none"> • Not entirely convinced of the policy need to have a complicated food eligibility criteria system for nutrient profiling but consider the time for reviewing policy guidelines is over and they therefore focus on ‘will the model work’. • Has completed a nutrition audit of over 250 House brand (private label) food products manufactured for Coles Supermarkets. The results of this audit (extensive data) are provided in Attachment 1 of their submission. See submission page 5 for details on sampling method. • It was found that: <ul style="list-style-type: none"> – 162 House brand items met the nutrient profiling criteria, – 31 products that currently make claims did not meet the nutrient profiling criteria, and – 62 products not currently making claims did not meet the nutrient profiling criteria. • A summary of the audit project and potential high level and general level claims that may be able to be made for Coles House brand foods is at Attachment 2 to their submission and summarised below: <ul style="list-style-type: none"> – Full fat cheese is disqualified under the proposed profiling system despite it being a source of calcium. – Confectionery is disqualified. – All fruit and vegetables qualify even when adding sauces to them – such as You’ll Love Coles sliced mushrooms (pizza/pasta meal) or the You’ll Love Coles Caesar salad kit. – Hash browns and French fries qualify however potato wedges are disqualified. – Only the Lite (in fat) Vanilla ice-cream qualifies in the You’ll Love Coles ice-cream range. – All of the You’ll Love Coles extra trim meat qualifies however the sausages, bacon and corned silverside (reduced salt) are disqualified. – Pasta and rice qualifies but the You’ll Love Coles pasta sauce range does not qualify. – Oil, butter and spreads are also all disqualified. – You’ll Love Coles caramel popcorn and buttered microwave popcorn is disqualified however the microwave popcorn buttered light and the popping corn qualifies. – All You’ll Love Coles soft drinks qualify. You’ll Love Coles Diet Lemonade makes a claim regarding ‘No added sugar’ & includes the fibre content on the label. – The You’ll Love Coles ice-cream cones qualify to make health claims despite a lack of nutritional value. – Rice cakes are the only dry biscuits to qualify under the proposed profiling system.
Frucor Beverages Ltd	Industry – Trans Tasman	<ul style="list-style-type: none"> • Agrees with the nutrient profiling model 7.

Submitter	Group	Comments
<p>General Mills Australia Pty Ltd and General Mills New Zealand Ltd</p> <p>Cereal Partners Worldwide</p> <p>Nestlé</p>	<p>Industry – Trans Tasman</p>	<ul style="list-style-type: none"> • Health claims should be permitted on all foods for which a substantiated health claim can be made. • The scoring thresholds for nutrient profiling are weighted inappropriately in favour of the baseline nutrients. • The complexity of the system will need significant communication and education for industry, particularly the small manufacturers. • Considers that any attempt to assess the nutritional worth of a food using a universal nutrition profiling model conflicts with the basic nutrition principle that it is the combinations of foods eaten and the amounts consumed that is important, not the nutrient content of 100g of those individual foods. • It is questionable to use one model to create and compare the scores of such widely differing foods as individual ingredients, meals, composite foods and foods eaten in different quantities by consumers with different needs and lifestyles. • Nutrient profiling fails to acknowledge the positive attributes such as micronutrient content. • Agrees that the disqualifying criteria proposed at Draft Assessment were problematic and the nutrient profiling model is an improved approach. • Submits that the scoring thresholds are capped inappropriately in favour of the baseline points. The fibre score is capped at 5 rather than 10. • It seems inappropriate not to recognise the importance in the diet of fibre, fruit and vegetable in the profiling model. • Recommends the baseline points and fruit, vegetable and fibre points are aligned, from 0 to 10 rather than 0 to 5. • The points system has been set so that those foods that carry the maximum level for low saturated fatty acid, sugars and sodium claims per 100 g cannot meet the 0 baseline points. As the points system is for either per 100 g or per 100 mL, they could accept that the saturated fat level and the sugars level for 0 baseline points is in between the levels for a low saturated fatty acid or low sugar claim for a liquid food or a solid food. However, in order to make a low sodium claim for a solid food or a liquid food, the maximum requirement is 120 mg per 100 g or per 100 mL. This level has not been adopted as the 0 points category for sodium and they believe that this would have been a reasonable approach. • Supports the inclusion of concentrated fruit juice as a source of V points, where only the water has been removed. • Notes that dried fruits and desiccated and dried coconut can be counted towards V points but tomato powder is not permitted to be used. If tomato powder is tomato with the water removed then it is not clear why this is not permitted. • FSANZ needs to include all dried vegetables and fruits where only water has been removed. • Clause 6(3) requires declaration of dietary fibre, calcium and percentage of fruits, nuts, vegetables and legumes where applicable. This seems to be overly prescriptive. Some products contain many of these ingredients and if they are percentage labelled as required by the proposed drafting, the formulation is almost revealed, which is unacceptable. This applies to products with ‘diet’ and GI claims too.
<p>General Mills Australia Pty Ltd and General Mills New Zealand Ltd</p> <p>Nestlé</p>	<p>Industry – Trans Tasman</p>	<ul style="list-style-type: none"> • Submits that the scoring thresholds are capped inappropriately in favour of the baseline points. The fibre score is capped at 5 rather than 10, meaning that whilst a significant proportion of nutritious snacks contain over the maximum of 4.7 g of fibre per 100 g, they wouldn’t get recognition for this.

Submitter	Group	Comments
Heinz Australia and Heinz Wattie's (Heinz)	Industry – Trans Tasman	<ul style="list-style-type: none"> Agrees with the current point values and the product grouping.
Nestlé	Industry – Trans Tasman	<ul style="list-style-type: none"> The preferred nutrient profiling model bases the calculation on per 100g rather than per serve. Small serve sizes are now penalised. The model does not provide for health claims on portion-controlled products that are dense with positive nutrients such as nutritious snacks. Basing a scheme on 100g for small serve products does not lead to an appropriate classification as it distorts by over predicting the impact of foods consumed in small quantities. FSANZ must review and amend or develop a new category within the nutrient profiling model, as previously done for both the cheese and edible oils food categories, to address the issues raised on small serve size products.
ADECRON Food Tech Consulting	Industry – New Zealand	<ul style="list-style-type: none"> Because many concentrated products are more than 2x concentrated, calculation from reconstituted can give quite different results. Has that been modelled / tested? Notes mixed non-concentrated and concentrated formula in some of the documentation had an error. First entry below the line should be non-concentrated and is in some places, but not in all. Agrees with not giving protein points when base points are >10. Why are there no bonus points for protein in category 3 products? These foods may score less than 11, e.g. low fat cheese/curds. If expanding/combining the scoring systems for all categories that would automatically happen anyway. The pass/fail point could be shifted accordingly for cheese.
Chamber of Commerce and Industry WA	Government - Australia	<ul style="list-style-type: none"> Noted the background paper to P293 dated March 2007 states on page 11 that ‘...This nutrient profiling system will apply to all health claims (both general and high level), but not to nutrition content claims’. Noted discrepancy on Page 15, Appendix 1 of the same document, which lists the criteria for specific nutrition claims and states ‘claims citing Glycaemic Index will not have to be linked to an endorsement and manufacturers may use the descriptors ‘low’, ‘medium’ and ‘high’ on foods meeting the criteria. Nutrient profiling requirements will apply to foods carrying these claims’. Sought clarification from FSANZ on this issue and understands that nutrient profiling will be required for nutrition claims because FSANZ consider ‘Glycemic Index (GI) claims are an exception due to their unique nature of involving a physiological impact. In order to ensure they are not used on foods which may be misleading in their status as ‘healthier options, for example, high fat foods, we are proposing the nutrient profiling be applied to GI claims’. Recommends that all nutrition statements, including claims citing GI, should be exempt from the nutrient profiling system providing the claim is scientifically substantiated. In this respect the manufacturers must prove that the nutrient, substance or property that is the subject of the claim is present at levels referred to in the claim. Maintains that individual food products are not the most critical element but rather the entire diet is more important. The improvement of a food products’ nutritional quality, such as developing it as a low GI product, should be recognised and manufacturers should be allowed to make nutritional claims about a product on that basis, irrespective of whether the nutrient profile is met. Considers that the nutrient profiling system does not take into account the beneficial nutrients of a product.

Submitter	Group	Comments
Department of Health and Human Services - Tasmania	Government - Australia	<ul style="list-style-type: none"> • Congratulates FSANZ for addressing stakeholder concerns at Draft Assessment and the significant amount of work that is involved in developing such a model. Any model that differentiates on the basis of nutrient composition is fraught with difficulties around defining ‘desirable’ and ‘undesirable’ characteristics. This model overcomes the concern of some foods being eligible for a health claim by virtue of their small serve size and allows foods recommended in healthy eating guides to be eligible by virtue of the per 100 g calculations. • Believes that vegetable and fruit points (‘V’ points) should be restricted to include foods that are recommended to eat more of in nutrition guidelines. This would exclude coconut due to its (saturated) fat content and fruit juice, in view of recommendations to limit consumption and promote water as a drink. Spices alone do not represent significant nutrients nor potentially provide sufficient points to be eligible for a health claim and should also be excluded. • Believes that fibre points (‘F’ points) should exclude polydextrose in relation to issues raised elsewhere.
New South Wales Food Authority	Government - Australia	<ul style="list-style-type: none"> • Questions the rationale used to permit full cream milk to bear health claims (e.g. calcium and osteoporosis). Although a good source of calcium, health statements on these products may promote excessive consumption of this product, which in turn increases total dietary fat intake (mostly saturated fat). • Does not consider it appropriate to promote/support the use of full cream milk/dairy products to help meet recommended daily calcium intakes when lower fat alternatives are available. • Recommend that full cream milk/milk products are ineligible to carry health claims. • Fruit juices, though a significant source of antioxidants and vitamins, are also a significant source of sugars and energy. Allowing health claims on fruit juice may promote consumption of more fruit juice than is recommended by the Australian Guide to Healthy Eating, which may impose an obesity risk. Suggest that fruit juices are appropriately labelled to inform consumers of the risks of over consumption on these products. • Examination of a range of cereals and healthier meals from takeaway outlets (e.g. McDonald’s meals with Heart Foundation ‘tick’) shows that these foods often become eligible for general level and high level health claims by virtue of their protein content. • Notes that should these meals be assessed purely on disqualifying criteria that some of the 9 options with the ‘tick’ are not eligible to carry general level or high level health claims. As protein intakes are not an important population nutrition issue in Australia, it is suggested that the weighting provided to protein be reassessed. • Hot chips are defined as an ‘extra’ food in the Australian Guide to Healthy Eating. Strongly recommend that hot chips and other fried takeaway foods be ineligible to carry health claims. • Many artificially sweetened and carbohydrate-modified products, such as diet soft drinks, diet cordials, and carbohydrate-modified confectionery are currently eligible to carry health claims by virtue of their low (or reduced) sugar and energy content. Although these products are often healthier alternatives than the sweetened variety, they are not in fact healthy products. Recommend that artificially sweetened and carbohydrate-modified products are not eligible to carry health claims.

Submitter	Group	Comments
South Australia Department of Health	Government - Australia	<ul style="list-style-type: none"> • Commends FSANZ on developing the nutrient profiling system based on the work of Mike Rayner at Oxford, UK. • Supports the format of the new eligibility criteria and the principle of allowing points for positive nutrients. • Supports a system that provides common criteria across food products; in contrast with a system with separate criteria for each of a large number of food categories (e.g. the National Heart Foundation’s Tick Programme). • Considers a system based on content with credit given for ingredients in line with their dietary value as per the healthy eating guidelines has merit in that it is robust enough to give clear results and should be a food enforcement tool. • Does not support coconut, fruit juice or concentrated juices being able to confer ‘V’ points. The intention of making allowances for positive nutrients was to ensure that healthy, nutrient dense, primary foods such as fruit were able to carry health claims, whereby they may have been disqualified by the previous system. Coconut is high in saturated fat and its addition to a food should not confer points that might make a borderline food eligible for a health claim. • Given the issues surrounding links between sweet drinks such as fruit juice and obesity and dental caries, particularly in childhood, fruit juice or concentrated juice should not be considered in ‘V’ points. • Believes that fibre points (‘F’ points) should exclude polydextrose in relation to issues raised elsewhere.
Dairy Australia	Industry - Australia	<ul style="list-style-type: none"> • Overall, Dairy Australia has majority support for FSANZ’s preferred model for determining the eligibility of foods to carry health claims (Model 7). It is most consistent with FSANZ’s objectives set out in Section 10 of the FSANZ Act and the Policy guideline on nutrition, health and related claims set by the Ministerial Council. • In particular, believes that the proposed eligibility criteria set out in Model 7 are consistent with the following areas of the FSANZ Act: <ul style="list-style-type: none"> – The protection of public health and safety; – The provision of adequate information relating to food to enable consumers to make informed choices; – The prevention of misleading or deceptive conduct. • Model 7 is also consistent with the following policy principles from the Ministerial Council guidelines: <ul style="list-style-type: none"> – Give priority to protecting and improving the health of the population; – Enable the responsible use of scientifically valid nutrient, health and related claims; – Support government, community and industry initiatives that promote healthy food choices by the population; – Allow for effective monitoring and appropriate enforcement. • Clearly, from the Preliminary Final Assessment Report and accompanying attachments, a great deal of effort has been put into identifying the most suitable eligibility criteria. We congratulate FSANZ on their endeavours. • Pleased that FSANZ has recognised that whole milk is an important part of the diet and is able to make health claims. Appendix 1 to this submission lists some of the many reasons why Dairy Australia supports the recommendation that whole milk and regular-fat cheese be eligible to make for health claims. • Agrees with the comment (p. 90) that there are still some anomalies in Model 7, particularly in the area of cheese.

Submitter	Group	Comments
Dairy Australia	Industry - Australia	<p>Specific comments on the nutrient profile model in relation to cheese</p> <ol style="list-style-type: none"> 1. Agrees that it is important that any model used to determine the eligibility of foods for making health claims should be defensible in relation to nutritional recommendations and have credibility for both the general public and health professionals (p.88). Strongly supports FSANZ’s recognition of the importance of encouraging calcium intakes in many sections of the population and the proposal to have a separate eligibility scoring system to determine which high calcium hard cheeses can carry health claims. 2. However, as explained in the following section, Dairy Australia recommends that a small amendment is made to this system. 3. Dairy Australia is extremely concerned that Cheddar cheese is ineligible to make health claims, as this is the type of cheese most commonly consumed by the Australian population – Cheddar cheese accounts for 70% of supermarket cheese sales (AC Nielsen’s ScanTrack - Supermarket sales data, supplied to Dairy Australia). 4. Setting the cut-off for cheese at <28 points allows cheese types with higher moisture levels to make health claims, but not the harder, drier types of cheese types. 5. Cheese containing over 42 g water per 100 g (e.g. Camembert, Feta, Brie and Mozzarella) would be eligible to make health claims and cheese containing below 38 g water would not. 6. The water content of a cheese impacts on its physical characteristics and use. For example: <ul style="list-style-type: none"> - cheeses with little water in them, such as Parmesan, tend to be finely grated or shaved and consumed in small amounts as the flavours are very strong; - cheeses with higher water contents, such as Brie, tend to be sliced thicker than cheeses with lower water content such as Cheddar, as they stick to the knife if cut very thinly. 7. When you take into account the way in which the physical properties of the cheese dictate their use and typical serving size, the intake of energy, saturated fat and sodium per serving is usually very similar. 8. From Table 2, it is difficult to justify why Cheddar slices would not be eligible to carry health claims when Brie would, particularly as Cheddar slices supply 40% more calcium. <p>Reasons why Cheddar cheese should be eligible to carry health claims</p> <ol style="list-style-type: none"> 1. Research studies indicate that consumption of large amounts of Cheddar-type cheese (120 g per day) does not raise total of LDL cholesterol levels even in adults with moderately elevated cholesterol (Nestel et al., 2005). Although Cheddar cheese does contain sodium, it also provides significant amounts of blood pressure reducing nutrients such as potassium, calcium and magnesium. When subjects consumed 120 g of Cheddar cheese per day, blood pressure (systolic, diastolic and median) did not change (Nestel et al., 2005). 2. If Cheddar cheese is not permitted to carry health claims, it will be listed alongside foods such as doughnuts, mayonnaise, chocolate spread and crisps as an ‘unhealthy food’. Dairy Australia believes that this is misleading and inconsistent with FSANZ’s objective to protect public health. 3. Regular-fat cheese such as Cheddar cheese is recommended as part of the dietary guidelines for children and adolescents.

Submitter	Group	Comments
Dairy Australia	Industry - Australia	<ul style="list-style-type: none"> • The Australian Dietary Guidelines for Children and Adolescents (2003) state: • <i>‘Enjoy a wide variety of nutritious foods: include milks, yogurts, cheeses and alternatives. Reduced-fat milks are not suitable for young children under 2 years, because of their high fat needs, but reduced fat varieties should be encouraged for older children and adolescents’.</i> • Although selection of reduced-fat dairy products is encouraged, the Dietary Guidelines <i>still recommend consumption of regular-fat products.</i> (Otherwise the dietary guideline would read something along the lines of <i>‘Enjoy a wide variety of nutritious foods: include reduced-fat milks, yogurts, cheeses and alternatives’.</i> N.B. For meat, the Dietary Guidelines do specify that only lean meat should be consumed.) • The Australian Dietary Guidelines provide information about the healthiest choices for a number of food groups. For example, for the cereals group, the guidelines suggest that wholegrain products should be eaten in preference to other products. This does not mean that non-wholemeal products should be avoided. Indeed, just as white bread is eligible to carry health claims, so too should Cheddar cheese. <ol style="list-style-type: none"> 4. The Australian Guide to Healthy Eating indicates that all hard cheeses belong to the milk, yogurt and cheese food group, a core food group. 5. Not allowing Cheddar cheese to carry health claims could have serious ramifications outside the health claims standard. For example, in determining whether Cheddar cheese is permitted to be used in school canteens. Already some states have listed Cheddar cheese as a ‘sometimes’ food rather than an ‘everyday’ food. Cheddar cheese partnered with salad ingredients makes an excellent sandwich filling. If it is not available in school canteens, children may eat less varied diets. Reduced-fat cheddar has different sensory characteristics to regular-fat cheddar. If only reduced-fat cheddar is available, some children may miss out on the nutritional benefits of cheese. 6. A high proportion of the Australian and New Zealand population consume diets that are lacking in calcium. Cheddar cheese is a nutrient-dense food that requires no cooking, is easy for people with poor dentition to consume, is cariostatic, and is easy to transport. This makes it ideal for nutritionally vulnerable population groups such as the elderly to consume and for use in packed lunches (e.g. in sandwiches and salads). 7. With the current proposal, only Camembert, Feta, Brie and Mozzarella would be eligible to make health claims. Pregnant women, who are advised not to consume Brie or Camembert due to risk of Listeria, would have little choice of health-claim endorsed cheese. 8. Research demonstrates that it is beneficial for consumers to select a variety of types of dairy foods as this improves the nutritional adequacy of their diet (Foote et al., 2004). Consumers should be encouraged to consume milk, yogurt and cheese. Foote and colleagues concluded that adding a serving of a different type of dairy product to the 1.2 dairy servings in the current US diet could increase women’s mean nutrient adequacy score by 8.5%, or from 57.7 to 66.2%. Excluding 70% of cheese purchased in Australian supermarkets from making health claims is not going to encourage Australians to eat a variety of types of dairy foods.

Submitter	Group	Comments
Dairy Australia	Industry - Australia	<p>Use of the Calcium, Vitamin D and Osteoporosis high level claim</p> <ul style="list-style-type: none"> • The calcium, vitamin D and osteoporosis health claim is aimed at people aged 65 years and older. Cheese and crackers is a very appropriate, nutrient-rich snack for older people to consume. • In order to be eligible to carry the high level health claim about calcium, vitamin D and osteoporosis, it is now proposed that foods should contain no less than 290 mg calcium per serving and meet the scoring criteria for health claims (i.e. for cheese, a baseline score below 28 points). • Concerned in that with the <28 points threshold, many of the higher calcium cheeses are not eligible for health claims. The ones that are, tend to be the ones containing higher amounts of water and therefore have lower calcium contents. Taking 40 g as a standard serving of cheese, cheese would be required to contain at least 725 mg calcium per 100 g to use this high level health claim. • The eligibility of various types of cheese to meet the two different criteria required to make the calcium, vitamin D and osteoporosis high level health claim is listed in Table 3. • The only types of cheese that meet both criteria to make a high level health claim for calcium, vitamin D and osteoporosis are Swiss-style cheese and Mozzarella. • Even if adjustments are made for softer cheeses having slightly larger serve sizes, as outlined in the section above, a 50 g serve of Brie or Camembert contains less than 290 g calcium and would not be eligible to carry this high level health claim.
Dairy Australia	Industry - Australia	<ul style="list-style-type: none"> • Reading pages 23 and 24 of attachment 6, it seems that the rationale for setting <28 points as the cut-off for category 3 foods to carry health claims is to prevent some high sodium polyunsaturated spreads from being eligible to carry claims. Margarine and cheese are very different food products and what works for margarine clearly does not work for cheese. As the intent of putting cheese into Category 3 (as outlined on page 90) was to take account of high calcium cheeses, Dairy Australia suggests that the criteria for cheese be amended in order to allow Cheddar cheese to be eligible to make health claims. • One way of doing this may be to include a protein score in the Category 3 scoring system. Table 3 lists the effect of such an amendment to the eligibility of various types of cheese to make health claims. <p>Advantages of including a protein score in the Category 3 scoring system</p> <ul style="list-style-type: none"> • Other foods included in the Category 3 classification (fats, oils and spreads) contain less than 1.6 g protein per 100 g or 100 mL, so the addition of protein points to the Category would not alter their classification. • Enables a wider variety of calcium-rich hard cheeses, including Cheddar to make health claims. • Processed cheddar, which is high in sodium, is still ineligible for health claims. • Six of the most popular types of cheese (Cheddar, reduced-salt Cheddar, Swiss-style cheese, Edam, Gouda and Mozzarella) would be eligible to make the high level health claim for calcium, vitamin D and osteoporosis.

Submitter	Group	Comments
Department of Agriculture, Fisheries and Forestry (DAFF)	Government - Australia	<ul style="list-style-type: none"> • Acknowledges the need for a nutrition, health and related claims framework to protect consumers from false and misleading information on food labels. Further agrees that a food product making a health claim should contain a suitable level of the specific nutrient about which the claim is being made and list this nutrient in the nutrition information panel. However, DAFF considers that further analysis needs to be undertaken to establish a clear case regarding the need for food products wishing to make health claims to meet qualifying criteria that relates to the overall nutritional profile of the food product. It is unclear what additional information or benefit is conferred to the consumer in applying such qualifying criteria. • Notes that the Ministerial Council’s Policy Guideline on Nutrition, Health and Related Claims does not specifically require a health claims standard to set out qualifying or disqualifying criteria for certain types of claims. Furthermore, consumer research analysed by FSANZ at Draft Assessment was inconclusive regarding the reaction of consumers to health claims and there is no apparent evidence that the use of health claims on foods that do not meet the nutrient profile model criteria will have a detrimental impact on consumers’ health. • Considers that nutrient profiling individual foods, as opposed to the total diet, could be viewed as inappropriate and at odds with the national dietary guidelines. The framework for health claims should facilitate the provision of useful information to consumers about the health benefits of certain food products without discriminating against individual foods that have a place in a healthy and balanced diet. DAFF acknowledges that FSANZ has amended the draft standard since Draft Assessment to try to improve the ability of the model for food composition qualifying criteria to accurately identify foods suitable to carry health claims. • However, DAFF believes there is potential for the proposed nutrient profile model to discriminate between very similar ‘healthy’ products within a food group. An example previously provided by FSANZ indicates that high fibre Weet-bix will not be able to carry a fibre health claim due to their high sodium content, but standard Weet-bix with a lower fibre content will be eligible to carry a fibre health claim. Such a situation may mislead consumers and lead to avoidance of foods without health claims, despite them being a healthy choice and consistent with the national dietary guidelines. DAFF is concerned that, by creating apparent inconsistencies in the use of health claims, use of the proposed nutrient profile model may undermine the credibility of nutrition, health and related claims in general. • By profiling individual foods based on predetermined nutrient levels, DAFF also considers that the proposed nutrient profile model does not provide the necessary flexibility to reflect the considerable differences in consumers’ dietary needs. In many cases, despite use of the nutrient profile model, the health or diet conscious consumers that have been found to take most notice of health claims will still need to verify claims using the NIP or ingredient list to see if the product meets their own dietary needs. • Considers that these issues need to be given further consideration prior to the introduction of a nutrient profile model for assessing food product eligibility to carry health claims.
Department of Human Services - Victoria	Government - Australia	<ul style="list-style-type: none"> • Commends the work undertaken by FSANZ on the proposed criteria. • Supports the format of the new qualifying/disqualifying and the principle of allowing points for positive nutrients.

Submitter	Group	Comments
Queensland Health	Government - Australia	<ul style="list-style-type: none"> • Supports the new approach to eligibility criteria for general level health claims and the principle of ‘points’ for positive nutrients. • Does not believe that coconut and fruit juices should be included in fruits and vegetables and therefore not contribute positive points. Coconut is high in saturated fat and the consumption of sweetened drinks like fruit juice has been linked to the occurrence of overweight/obesity in children.
Campbell Arnott’s Asia Pacific	Industry - Australia	<ul style="list-style-type: none"> • Currently seeds are specifically listed in Schedule X Step 2 as counting towards ‘V’ points, but wholegrains are not specifically identified. • Understands that seeds are inclusive of wholegrains and wholegrains are further defined in Standard 2.1.1. • Recommends that the word ‘wholegrains’ be specifically included in conjunction with the other listed foods that count towards ‘V’ points.
Campbell Arnott’s Asia Pacific	Industry - Australia	<ul style="list-style-type: none"> • Remove sugar from the points qualification calculation for general level health claims. • Energy, sodium, saturated fat and sugar all provide baseline points in part C of Schedule X. Sugar is a key contributor to energy and, therefore the model results in a double counting of points relating to energy, with fatty foods being favoured over sweet foods. • In modelling done on a range of biscuit products, the current criteria would eliminate all biscuits and crackers with the exception of a small range of wholegrain crisp breads. However Arnott’s Snack Right range of products, many of which qualify for the National Heart Foundation Tick, would be excluded. In contrast, removal of the sugar points from the calculation would allow these and similar healthier snack products to be included offering consumers improved choice. These products are low in fat, and the sugar is primarily derived from fruit. • In modelling done by Campbell Arnott’s removal of sugar from the calculations would not allow other sweet biscuits to be eligible (<i>Campbell Arnott’s provided Appendix A to their submission, which includes Table 1 – Arnott’s products inclusive of sugar in the calculation and Table 2 – Arnott’s Products exclusive of sugar in the calculation</i>). • In response to health authority concerns and consumer requirements Arnott’s recognised the need for a healthier snack alternative and developed the Arnott’s Snack Right range. Considerable research and development has been undertaken on our Snack Right range of products to significantly reduce the saturated fat and trans fat content, replacing them with monounsaturates while significantly increasing the fruit and fibre content resulting in a biscuit that was nutritionally superior in the market. • Unnecessary restrictions on general level health claims will be a disincentive for future product development of this kind and will restrict meaningful nutrition and health communications to consumers in supporting and encouraging a healthful diet.

Submitter	Group	Comments
Dairy Australia	Industry - Australia	<ul style="list-style-type: none"> • Concerned that the definition for milks covered under Table 2, ‘Food Product Categories’ (Attachment 7, p.5) is ambiguous and may be open to different interpretations. It is important that the information under each category is specific enough so that industry and enforcement agencies can interpret the regulation consistently. • Table 2 – Food Product Categories lists ‘Milk as defined in Standard 2.5.1’ which includes unmodified full cream milk (whole, regular) and skim milk – as well as milk with added phytosterol esters and tall oil phytosterols. The ‘Food Products Categories’ table also includes ‘Evaporated milks or dried milks as defined in Standard 2.5.7. These may be fortified with vitamins and minerals as listed in Standard 1.3.2 or have food additives added as listed in Standard 1.3.1.’ Thus this <i>implies</i> that ‘Modified milks’ as stated in Standard 1.3.2 (Food Standards Code, Table to Clause 3) and liquid milks products (Standard 1.3.1, Schedule 1, Dairy Products) are also covered in Category 2 – but this should be clearly outlined by FSANZ. • The ‘Food Product Categories Table’ also states ‘<i>but no other food additives or substances be added</i>’. This would preclude liquid milk products containing added nutrients and functional ingredients, e.g. fibre, omega 3’s – from the Category 2 definition, which may not be the intent of FSANZ. If these liquid milk products were determined as Category 1, the most likely result is that these milk varieties would be ineligible to make health claims, however these milks with enhanced nutrients are tailored to meet specific requirements for which claims should optimally be permitted. • Also under the current definitions for determining Category 2 foods, milk based beverages prepared in accordance with provisions of Standard 2.9.3 – Formulated Supplementary Foods – may fall into Category 1 and would therefore be ineligible for health claims. These milk products with added vitamins and minerals are specifically tailored as nutrient dense beverages that serve specific dietary needs. These products have in common that ‘milk’ (whole milk and/or modified milk) is the first ingredient present in the largest amount and such milk based beverages should be eligible to make health claims. • Similarly, all flavoured milks appear to be classified into Category 1 (p19, Attachment 6), despite the capacity for flavoured milk to have a similar nutrient profile to whole milk or reduced-fat milk. This apparent inconsistency is at odds with the fundamental principle that health claims should be allowed on food that is demonstrated to contribute to specific aspects of health. Another food category for specific clarification is that consisting of yoghurt drinks – the rationale for determining whether these qualify to carry health claims should be made clear. • Strongly recommends that the definitions covering Category 2 foods (Attachment 7, p.5) be amended to provide greater clarity for the liquid milks captured under this Category. This should encompass all liquid milks currently permitted within the scope of the Code. • Dairy Australia recommends the following liquid milks be stated more clearly within the ‘Food Products Included’ Category 2 list: <ul style="list-style-type: none"> – Modified milks as specified in Standard 1.3.2 – Liquid milk products and flavoured liquid milk as defined in Standard 1.3.1 – Liquid milk products with added nutrients and functional ingredients, e.g. omega-3 milk, modified milk with added fibre, that can be substituted in the diet for milk (as defined in Standard 2.5.1)

Submitter	Group	Comments
		<ul style="list-style-type: none"> – Formulated Supplementary Foods compliant with Standard 2.9.3, e.g. formulated milk drinks, formulated milk beverages, that can be substituted in the diet for milk (as defined in Standard 2.5.1). • Refers to Appendix 1 to the submission, which includes some reasons why regular fat dairy foods should remain eligible to carry claims. (This is why whole milk should remain eligible and regular-fat cheese should become eligible).
Dairy Australia	Industry - Australia	<p>Specific comments on the proposed nutrient profile model in relation to regular-fat plain yoghurt</p> <ul style="list-style-type: none"> • Concerned that regular-fat, plain yoghurts, with a fat content less than 4%, will not be eligible to make health claims. Regular-fat, plain yoghurt is an appropriate food and snack choice, for the elderly and for children and teenagers, who are the target group of the osteoporosis claim and the bone density claim, respectively. • Regular-fat yoghurt is a nutrient-rich food and contributes more than 10 essential nutrients – relative to calories. For example, Ortega and colleagues (2000) investigated the effects of restricting the consumption of milk products on the overall dietary intake of a group of children. They observed that children who consumed higher amounts of milk products (yoghurt and cheese) had a better overall diet. Their intake of carbohydrate, riboflavin, zinc and calcium was higher than the low milk product consumers. • General level health claims should be permitted for regular-fat yoghurt, especially in relation to probiotics. Probiotics have been shown to have important benefits for gut health. For example, a recent meta-analysis (McFarland, 2006) sought to definitively answer the question of the value of probiotics in preventing antibiotic-associated diarrhoea and the closely related problem of treating established cases of <i>Clostridium difficile</i> disease. • The authors found 31 randomised, blinded controlled trials involving 3,164 subjects. Of these, 25 randomised controlled trials showed that probiotics can indeed reduce the risk of antibiotic-associated diarrhoea by more than half (relative risk (RR) = 0.43, 95% CI: 0.31-0.58, p<0.001). The remaining six trials found a 40% reduction in disease prevalence (RR=0.59, 95% CI: 0.41-0.85, p=0.005) due to <i>Clostridium difficile</i>. • Importantly, regular-fat yoghurt is an excellent nutrient-dense food for preschool children, who have small appetites and sometimes faddy eating habits. Studies show that strains of probiotic bacteria frequently added to yogurt can significantly reduce illness when children are in day care (Weizman et al., 2005) and reduce the incidence of rotavirus in this age group (WHO, 2003, Guarner F. et al., 2005). • Dairy Australia believes that it would be: <ul style="list-style-type: none"> – unhelpful to the protection of public health and safety – unhelpful for the provision of adequate information relating to food to enable consumers to make informed choices if yogurt manufacturers could not inform consumers about the proven health benefits of regular-fat plain yoghurt. • Appendix 1 outlines more reasons why regular-fat yoghurt should be eligible to make health claims. • Recommend that FSANZ reviews the scoring for regular-fat, plain yoghurt (category 2) and slightly amend the protein points to 1.4 g per point. This would permit regular-fat yoghurt to make claims.
Dairy Farmers	Industry - Australia	<ul style="list-style-type: none"> • Supports the preferred model (Model 7), as this is a considerable improvement on the previously proposed model and is far more consistent with FSANZ objectives and Ministerial Council guidelines.

Submitter	Group	Comments
		<ul style="list-style-type: none"> • However, p.90 still has some anomalies. Inappropriate that some core dairy products (some cheese, flavoured milk, standard yoghurts and custards) will not be allowed to carry claims other than nutrition content claims and vitamin and mineral general level health claims. • The definition of milk as defined in Table 2 Food Product Categories (Attachment 7) needs to be reconsidered. This does not include milks with added omega-3 or fibre, or those prepared in accordance with Standard 2.9.3. Flavoured milks (even if reduced fat) are also disadvantaged if intended to be included in category 1 compared to less natural and less nutrient dense beverages. • The criteria as they stand eliminate the following Dairy Farmers products: some custards, virtually all flavoured milks (except one that is low fat), standard yoghurts and cheeses (except for reduced fat cheese). These products are not ‘inconsistent with national dietary guidelines’ and are important contributors of nutrients. In particular it is inappropriate, under the current proposal that: <ul style="list-style-type: none"> – A high level claim for calcium and osteoporosis will not be permitted on full fat high calcium cheese, flavoured milk, standard yoghurt and custard. Dairy Farmers is pleased that the criteria for a high level claim for calcium and osteoporosis was changed to enable full cream milk to make a claim. However these dairy alternatives are also very appropriate foods for elderly people with small appetites who require a high calcium intake. – A claim for bioactive substances (e.g. those that reduce the risk of dental decay) will not be allowed on many cheeses. Cheese is a very appropriate snack for children and safely carried in lunchboxes compared to many other dairy foods. Standard yogurts will be unable to make claims about probiotic levels. – Flavoured milks (even reduced fat flavoured milk) will be largely unable to carry claims aimed at children and teenagers e.g. high level claim for calcium and bone density. Dietary Guidelines recognise that ‘small amounts of sugar can promote the intake of nutritious foods’. Research has shown that consumption of flavoured milk improves nutritional intake. Low calcium intake was the micronutrient most commonly low in the diets of school age children and adolescents in the National Nutrition Survey. Reduced fat flavoured milk such as Moove™ is accepted as a green food by school canteen guides. • Query as to the intent for the future regarding claims for vitamins and minerals? The current eligibility criteria are of even greater concern if, as it was stated in the previous report, these would be brought into line. To restrict general vitamin and mineral health claims on these foods is inappropriate. • If palatable core foods such as yoghurts, custard and cheese are not able to make general and high level health claims there are several scenarios: <ul style="list-style-type: none"> – Public does not receive information on pack about the nutritional value of some dairy products. This is inconsistent with healthy eating guides and could impact on intake of calcium and other essential nutrients – Higher energy dairy foods which are often appropriate for the elderly, young children and active teenagers may not be selected – Palatability and sensory characteristics of traditional foods (e.g. cheeses, yoghurts, custard) may be lost with an impact on consumption patterns, increase in consumer guilt and a move from sensible eating of these foods to a more modified food supply

Submitter	Group	Comments
		<ul style="list-style-type: none"> - More expensive modified products that will be able to carry general or high level claims may disadvantage low income families and individuals and reduce the chance to educate via food packages - There is potential for increased use of artificial sweeteners so that products meet the guidelines. Suggests that the impact of this – particularly on children – needs to be subject to dietary modelling. • Propose that: <ul style="list-style-type: none"> - ‘Milk’ be re-defined to allow all liquid milk products (including flavoured milk and other dairy beverages such as drinking yogurt), permitted within the scope of the code, to be captured under category 2 - Include a protein score in category 3 (as a marker for calcium). This would allow standard cheese with a high calcium content to make claims in line with current dietary recommendations - Decrease the protein grams allowed per point marginally to 1.4 grams per point which will allow claims for standard yogurts in line with current dietary recommendations.
Choice – Australia	Consumer - Australia	<ul style="list-style-type: none"> • Believes model is successful in minimising anomalies relating to which foods are eligible and which are not. • Notes that not all information required for the calculation is available on labels and therefore will be onerous for enforcement agencies and may discourage proactive enforcement and monitoring • Suggests listing of dietary fibre in the nutrition information panel and declaration of all fruit, vegetable, nut and legume components in the ingredients list should be mandatory to assist enforcement.
Free University of Amsterdam - Jaap Seidell	Research and Academia – International	<ul style="list-style-type: none"> • Presents a comparison of FSANZ system and Choices Netherlands(NL), FSA UK and Pick the Tick • Recommends that FSANZ uses a system that can be used internationally – e.g. Choices – based on WHO diet guidelines – launched in May 2006 • Advantages of Choices system – science based, internationally applicable, accepted by industry, retail, catering • Claims FSANZ’s use of 100g unfairly penalizes foods eaten in smaller quantities; no scientific basis for balancing positives and negatives; system encourages manufacturers to reformulate by adding positive nutrients rather than by subtracting risk-increasing nutrients; system is complicated and therefore not easy for partners to implement • Claims advantages of FSANZ system include: products scored on total sugar rather than added sugar; internationally applicable but targets are UK based with some adjustment for Aust/NZ; cross product category comparisons possible • Notes that under the Choices NL system products have to have a minimum quantity of all negative nutrients • See submission for further comments and outline of the ‘Ik Kies Bewust’ stamp programme introduced in the Netherlands in May 2006.
Sanitarium Australia/New Zealand	Industry – Australia/New Zealand	<ul style="list-style-type: none"> • Does not support nutrient profiling model since believes three broad categories creates a number of issues and irregularities • Values in the tables are not scientifically based • Milk is included in solid food category but soymilks are not • Division between beverages and other foods is blurred • Per 100g basis discriminates against concentrated foods designed to be eaten in smaller amounts (e.g. marmite) • System discriminates against dry foods, by giving points for energy density irrespective of serve size. Breakfast cereals are discriminated against relative to bread on a moisture content basis even though one serve of each has similar kJ

Submitter	Group	Comments
		<ul style="list-style-type: none"> • Foods containing naturally occurring sugars are disadvantaged (Kellogg’s Sultana Bran and Sanitarium’s Light and Tasty are ineligible even though the majority of sugars are from fruit) • Believes added sugars more relevant as part of the criteria than total sugars. Acknowledges the enforcement issues with ‘added sugar’ without values being on the NIP, but suggests that there are many aspects of the Code that are difficult to enforcement agencies to monitor such as percentage labelling • Some foods require higher levels of sodium for safety reasons (chilled vegetarian meals, yeast extracts). Consumers could see these nutritious foods as being unhealthy if not allowed to bear general level health claims. • Suggests the following improvements: <ul style="list-style-type: none"> – criteria should be ‘relaxed’ to ensure staple foods such as health breakfast cereals are not disqualified – points be deducted for small serve sizes – wholegrain content should be included in fruit and vegetable points to ensure all whole foods encouraged in the dietary guidelines are given equal credence – modifying points scale for fibre and protein be extended (e.g. Weet-bix gets no more points at 11% fibre because the table stops at 4.7% fibre. Would have to consume 150g of a 4.7% fibre food to reach the proposed ‘excellent’ source – criteria be based on ‘added sugar’ rather than total sugar to prevent more energy dense foods such as dairy and fruit products from being penalised for natural sugar – if nutrient profiling criteria continues to be based on total sugars, the ‘tipping point’ at which protein cannot be counted should be raised from 11 to 13 points – this would allow Kellogg’s Sultana Bran and Sanitarium’s Light and Tasty to make claims.
Wrigley	Industry - Australia	<ul style="list-style-type: none"> • Supports use of nutrient profiling for GLHC • Requests that chewing gum is exempt from nutrient profiling based on 100g due to its small serving size • Some gum products fail due to sodium yet the amount of sodium per pellet is only 4 mg or 0.17% RDI • If FSANZ unable to make an exemption based on small serving size alternative suggestion is as follows: • - if a product meets the nutrient profile on all but 1 parameter per 100g, then the product can qualify to make a health claim providing the %DI of the nutrient is less than 1% per serve.
Consumers’ Institute of New Zealand Incorporated (Belinda Allan)	Consumers – New Zealand	<ul style="list-style-type: none"> • Supports the use of the nutrient profiling model and commends FSANZ on the progress made on the nutrition profiling calculator. • Believes the system is a significant improvement on the disqualifying criteria published in the DAR. • Pleased FSANZ has taken account of the need to include positive as well as negative nutrients.
New Zealand Ministry of Health (Cynthia Maling)	Government – New Zealand	<ul style="list-style-type: none"> • States that the proposed nutrient profiling is based on the UK Food Standards Nutrient Profiling model, which was developed for an entirely different purpose – food advertising to children. • Comments that although the model has several advantages over the nutrient profiling criteria presented at draft assessment (e.g., it takes into account both risk-increasing nutrients and risk-reducing foods and nutrients), we do not believe the model proposed in the PFAR is rigorous enough for something as critically important as food standards legislation.

Submitter	Group	Comments
		<ul style="list-style-type: none"> • States that this lack of rigor is clearly indicated by the wide range of foods eligible to carry a health claim, including foods that are inconsistent with food and nutrition guidelines. For example, deep fried potato chips (H44 in Concise New Zealand Food Composition Tables) are eligible. • Believes that without further modifications, the nutrient profiling model could undermine existing nutrition policies and programmes, confuse and mislead consumers, and may promote over-consumption of less healthy foods. • Particularly concerned about misleading health claims appearing on foods marketed to children. • Believes that until health claims are proven to be effective in improving dietary intake and relevant agencies have the necessary resource to monitor and enforce Standard 1.2.7, only a small number of healthy core foods should be eligible to carry a health claim. • For example, would like to see full fat milk as ineligible and reduced fat milk as eligible, and white bread as ineligible and wholemeal/wholegrain bread as eligible. • Supports model 7 in principle, but strongly recommend the model be adapted to become more rigorous. • Suggested modifications to model 7 include: <ol style="list-style-type: none"> 1. More stringent baseline or ‘A’ points for category 1 and 2 foods. Comment that unlike most other models, model 7 does not require criteria to be met for all baseline risk-increasing nutrients. For example, a baseline score <11 could be achieved if a food scored low for some nutrients and a high for others. Believe foods should meet criteria for energy and saturated fat and sugar and sodium. Therefore, one modification to the model could be to ensure a food must score below a certain threshold (e.g., <4) for all baseline nutrients. 2. More stringent criteria for cheeses, edible oils and spreads. These products are very energy-dense and over-consumption could lead to weight gain. Prefer that only reduced fat cheeses and reduced fat and salt spreads were eligible. This could be achieved by lowering the eligibility score for category 3 foods (e.g., from 28 to 20). 3. Support the concept of FVNL points; however we recommend changes to the FVNL criteria to exclude highly processed vegetables, fruit and nuts, as well as coconut, spices and herbs. 4. Many foods that score >11 baseline points become eligible based on protein and fibre points. Although protein is a not a risk-increasing nutrient, there is no recommendation to increase protein intake and high intakes are not recommended for some groups. • Concerned about the differences between the proposed nutrient profiling system (model 7) and a Food and Beverage Classification System (FBCS) recently developed by a group of technical nutrition experts in New Zealand. The FBCS was developed to support the Mission-On initiative to improve the food and nutrition environment in schools and early childhood education centres. The FBCS is both a food and nutrient based system, and takes into account the overall nutrient profile of the food, as well as the energy, saturated fat, sodium and fibre content. The FBCS is designed to classify foods into three groups according to how frequently they should be consumed: everyday, sometimes, occasionally. • Comments that the large disparities in how foods are classified by each system is likely to create great confusion for the public and undermine both systems. Currently in the FBCS, many of the foods classified as ‘occasional’ foods under the FBCS, which are supposed to be eaten sometimes (e.g., full fat milk) or occasionally (e.g., deep fried chips) are eligible to carry a health claim.

Submitter	Group	Comments
		<ul style="list-style-type: none"> For health claims, believe nutrient concentration data from accredited laboratories using food standard compliant methods should be required. Comment that criteria should also include detailed information on food sampling protocols, analytical methods, and quality control/assurance. State that using data from food composition databases should be prohibited for health claims, since these databases reflect the average nutrient concentrations for generic foods and do not reflect the variation between foods. Moreover, note that these databases will never be sufficiently up-to-date and comprehensive to accurately represent the current food supply.
Obesity Action Coalition (Leigh Sturgiss)	Public Health – New Zealand	<ul style="list-style-type: none"> Considers that the amount of trans fatty acids should be taken into account when deciding if a food meets the standard on nutrient profiling. Believes that both health and nutrient claims should have the same assessing criteria, i.e. both types of claims should be subject to nutrient profiling.
<p>The Cancer Council Australia (Kathy Chapman, Sarah Mackay, Terry Slevin)</p> <p>Supported by the Cancer Council Western Australia</p>	Public Health - Australia	<ul style="list-style-type: none"> Supports in-principle and congratulates FSANZ on identifying and developing a system that considers both positive and negative nutritional characteristics. Believes this is a sensible way forward and a significant improvement on what was proposed in the Draft Assessment Report. Anticipates that the food industry will easily adapt to use of the nutrient profiling model and that it also encourages the food industry to innovate and develop healthier products. Comments that the number of different classification and criteria schemes present in Australia, whether it be a school canteen guideline or a National Heart Foundation tick endorsement, for rating foods as healthy or unhealthy is likely to confuse consumers and undermine public confidence in any scheme adopted by FSANZ. Recommends that the Australian government and FSANZ take the lead in setting parameters for different classification schemes, and as far as possible moving toward a ‘universal’ scheme. Believes it is essential that one body take responsibility to ensure that there is not proliferation of divergent schemes within Australia. Believes additional foods should be disqualified from making claims, including artificially sweetened products and fruit juices. Note that fruit juices are prohibited from carrying high level claims related to fruit and vegetable intakes. However under the current scheme, fruit juices are still permitted to make general level claims and other high level claims when nutrients are added – for example, fruit juice fortified with calcium may make a health claim related to osteoporosis. Fruit juices are a significant source of sugar and energy in the diet. So allowing claims on fruit juice may promote excessive consumption of fruit juice and therefore possibly contribute to weight gain. Comments that, for example, a low sugar soft drink containing artificial sweetener and additional vitamins would still not be a healthy drink and therefore is not deserving of being able to make claims. Would like FSANZ to ensure that there is no loophole within the nutrient profiling model, whereby an unhealthy food could boost its nutrient profile score to qualify for a general level health claim on the basis of being able to be fortified with additional protein or low quality fibre.

Submitter	Group	Comments
The New Zealand Food Safety Authority (Carole Inkster)	Government - New Zealand	<ul style="list-style-type: none"> • Generally supportive of the model presented and believe this is an improvement on the option presented at DAR. • Considers that the use of average nutrient values from the Nutrition Information Panel to determine the eligibility of food vehicles places increased importance on these values. • States that the values must be enforceable and doubts this is the case. • Concerned that more intense sweeteners will be used in beverage innovation in order for products to meet the eligibility criteria for general level health claim, resulting in a possible increased consumption of these sweeteners. • States that from an enforcement point of view, the eligibility of a product to make a general level health claim will be determined using information declared on the label. Values not given on the label will be assumed to be zero. For example, if fibre is not declared in a nutrition information panel it will be interpreted that fibre levels have not been used to determine the products eligibility to make a general level health claim.
The Cancer Council Western Australia (Terry Slevin)	Public Health - Australia	<ul style="list-style-type: none"> • Believes the number of different classification and criteria schemes present in Australia for rating foods is likely to confuse consumers and undermine public confidence. • Believes some foods should be disqualified from making claims, including artificially sweetened products and fruit juices. • Believes there is need to ensure that there is no loophole within the nutrient profiling model, whereby an unhealthy food could boost its nutrient profile score to qualify for a general level health claim on the basis of being able to be fortified with additional protein or low quality fibre.
Dietitians Association of Australia (Ms Kate Poyner)	Public Health - Australia	<ul style="list-style-type: none"> • Supports this model. • Comments that no model will meet all needs but this model appears to be the best option. • Recognises that some foods with nutritional benefits will fail to satisfy the eligibility criteria to make a claim and hope FSANZ will have an appropriate review mechanism for such cases.
NSW Centre for Public Health Nutrition (Dr Vicki Flood)	Public Health Australia	<ul style="list-style-type: none"> • Believes there should be further refinements to prevent unhealthy choices being eligible or healthy choices being blocked. Specific concerns are as follows: <ol style="list-style-type: none"> 1. Protein as a risk decreasing modifying point Under the current model, a food product can deduct marks for its protein content if it scores less than 11 for baseline points or 100% for FVNL points. This allows certain foods which score 4 – 10 inclusive baseline points to become eligible based on their protein content. Concerned with this approach as protein, though a macronutrient essential for good health, tends to be over-consumed by Australians. Allowing protein as a modifying point may prompt manufacturers to boost the protein content of their products in order to pass the profiling, and hence further increasing the amount of protein over-consumed. 2. Full cream milk eligible for making health claims. Believes there is no reason to promote the use of full cream milk/dairy products in helping to meet calcium RDI by allowing full cream milk to bear health claim when there are lower fat alternatives available with similar or even higher calcium content.

Submitter	Group	Comments
		<p>3. Fruit juices and general level health claims Agrees with the prohibition of fruit juices from carrying high level health claims related to fruit and vegetable intakes. Believes allowing any claims on fruit juice may promote consumption of more fruit juices than the recommended amount set in the Australian Guide to Healthy Eating, which imposes the risks of overweight and obesity especially in children.</p> <p>4. Breakfast cereals Have examined a range of popular breakfast cereals for eligibility to carry a health claims (results included in submission). Comments that eligibility differs depending on if the calculation is conducted on 'as sold' or 'as prepared'. Believes all breakfast cereals should be profiled 'as sold', not 'as prepared' to avoid ambiguity.</p> <p>5. Margarines (fats and oils) Have examined a range of popular margarines, notes that most of the light options are eligible while the original full fat options are not. Recommends the inclusion of omega-3 fatty acids content in the eligibility criteria for this group of food as these are the most likely health benefits provided by healthy fats and oils, and that all fats and oils be ineligible to carry health claims unless specific criteria for omega-3 fatty acids or phytosterol are met.</p> <p>6. Hot chips and other fried foods States it is contradictory that such foods may be able to carry a health claim. Notes that nearly all types of hot chips are eligible (results included in submission). Strongly recommends that hot chips and other fried take-away foods be ineligible to carry a health claim.</p> <ul style="list-style-type: none"> • Believes that once the suitability of the proposed modelling system is confirmed, it may be used at a wider level, e.g. to assess healthiness of school canteen meals, take away foods, area health service food services, etc.
The National Heart Foundation of Australia (Anne-Marie Mackintosh)	Public Health - Australia	<ul style="list-style-type: none"> • Acknowledges the detailed work that has occurred with the development of the new model and e-calculator. • Pleased with the changes made to the proposed new model (no 7) for disqualifying criteria, specifically the inclusion of energy density, a positive score system to incorporate percentage fruit/vegetable/legumes and protein contents, and the use of per 100g as the base for calculation. • Disappointed that by being a 'one size fits all' single set of disqualifying criteria it does not recognise the differing nutritional contribution and composition of different types of foods. Comments: 'The experience of the Tick is that nutrients that are relevant to identify healthier or less healthy choices depend largely on the type of food, or food category'. • Does not support the inclusion of sugars in the disqualifying criteria, as sugar content per se of foods fails to recognise that the key issues surrounding high sugar intake are energy intake, nutrient density of diets, fibre content and dental caries. Acknowledges the addition of energy, fibre, and fruit/vegetable/legumes points to the disqualifying criteria as a compromise. • Comments that the only disease associated with high sugar consumption independent of energy intake is tooth decay, and urges that sugar be removed from the nutrient profiling model.

Submitter	Group	Comments
The National Heart Foundation of New Zealand (Anna Malan)	Public Health – New Zealand	<ul style="list-style-type: none"> • Acknowledges the detailed work that has occurred with the development of the new model and e-calculator. • Pleased with the changes made to the proposed new model (no 7) for disqualifying criteria, specifically the inclusion of energy density, a positive score system to incorporate percentage fruit/vegetable/legumes and protein contents, and the use of per 100g as the base for calculation. • Disappointed that by being a ‘one size fits all’ single set of disqualifying criteria it does not recognise the differing nutritional contribution and composition of different types of foods. Comments: ‘The experience of the Tick is that nutrients that are relevant to identify healthier or less healthy choices depend largely on the type of food, or food category’. • Does not support the inclusion of sugars in the disqualifying criteria, as sugar content per se of foods fails to recognise that the key issues surrounding high sugar intake are energy intake, nutrient density of diets, fibre content and dental caries. Acknowledges the addition of energy, fibre, and fruit/vegetable/legumes points to the disqualifying criteria as a compromise. • Comments that the only disease associated with high sugar consumption independent of energy intake is tooth decay, and urges that sugar be removed from the nutrient profiling model.
Glycemic Index Symbol Program (Alan Barclay)	Public Health - Australia	<ul style="list-style-type: none"> • Supports Model 7 as the best option amongst those considered. • Comments: ‘All protein sources do not have the same biological value, and the addition of poor quality protein (gelatine or gluten, for example) to less nutrient dense foods could allow less than desirable foods to be able to make health claims’. • Believes only foods containing proteins of a high biological value should be able to claim negative points in the nutrient profiling model. • Comments: ‘All sugars are not detrimental to health. While the provision of negative points to the model for foods and beverages that are sources of fruit and milk sugars is an important improvement, Model 7 still discriminates unfairly against other sources of sugars, while allowing foods high in refined starches, which are often at least as (if not more) detrimental to health (1), to pass. Model 7 deals with the kilojoule component of added refined sugars and the question must remain as to why an additional criterion for sugars is still required, when one for refined starches is not?’ • Believes either sugars should be removed from the nutrient profiling model, or provisions for refined added carbohydrates (both refined sugars and starches) should be added to provide a more biologically plausible model. <p>Foster-Powell K, Holt SH, Brand-Miller JC. International table of glycemic index and glycemic load values: 2002. Am J Clin Nutr 2002;76:5-56.</p>
Complementary Healthcare Council of Australia (Allan Crosthwaite)	Other - Australia	<ul style="list-style-type: none"> • Does not consider it in the interests of consumers to be led to believe that, for example confectionery products are acceptable ‘health’ foods because they meet the proposed eligibility criteria. Believes there is the risk these foods may replace basic food group items in the belief that they are ‘healthy’ substitutes. • Does not support the generalized Category 2 (Part A) for foods other than those in category 1 or 3. • Comments that some foods that should be considered inappropriate to make claims, would be eligible according to the proposed criteria e.g. sugar-free sweets and chewing gum. Recommends that the criteria be amended so that these foods would be ineligible as would be the case for most confectionery products.

Submitter	Group	Comments
New Zealand Dietetic Association (Jan Milne)	Public Health – New Zealand	<ul style="list-style-type: none"> • Supports FSANZ’s proposal to use a nutrient profiling model to assess foods for eligibility to carry health claims. • Comment that consideration also needs to be given to ensure that an appropriate review mechanism is in place to ensure those foods generally considered to have a good nutritional profile do not miss out.
The New Zealand Nutrition Foundation (Kelsey Woodcock)	Public Health – New Zealand	<ul style="list-style-type: none"> • Supports the use of the new nutrient profiling scoring system to determine the eligibility of foods to carry health claims and acknowledge the work that went into testing all the models. • Comments that the system is user friendly, with easy calculations from information that is readily available. However, notes that this is still quite a simplistic model and does not take into account foods naturally rich in micro-nutrients such as iron, folate, calcium or iodine, which are of concern in the New Zealand diet. • Recommends further research and possible refinement of the model. Comment that it may be useful to look at the research done by Adam Drewnowski, who is based in the USA, who has done a lot of research into the nutrient profiling of food and naturally nutrient rich scoring (Drewnowski, A. Concept of a nutritious food: toward a nutrient density score. Am J Clin Nutr. 2005; 82: 721-732).
The Omega-3 Centre (Wendy Morgan)	Public Health – Australia and New Zealand	<ul style="list-style-type: none"> • Recommends that the use of an arbitrary scoring system based on nutrient profiling for general level health claims should NOT be applied to GL health claims relating to long chain Omega-3s. • Comments that foods which make a general health claim for Omega-3s must meet the conditions of use for nutrition content claims for Omega-3s hence arbitrary scoring criteria are unnecessary. • Believes that providing the food meets the minimum amount of Omega-3s and is low in saturated and trans fatty acids either in absolute or proportional terms, the health effects of Omega-3s should be able to be communicated to consumers to encourage increased consumption. State that these nutrients are in short supply in the diets of most Australians and New Zealanders. • Believes the nutrition information panel provides information to consumers with specific concerns because when a claim is made in relation to Omega-3, the trans, polyunsaturated and monounsaturated fatty acids must be listed. • Comments: ‘National Health & Medical Research Council (NHMRC) recommendations for whole of diet have been inappropriately applied to the proposed scoring system for use with individual foods. The whole of diet recommendations from the NHMRC took account of the wide variety of food combinations which can be included in such a diet (NHMRC, 2003)’. • States that The Ministerial Policy for nutrition, health and related claims did not specify that disqualifying criteria were required for general level health claims. • Believes it is unnecessary for FSANZ to use scoring criteria because the Trade Practices Act covers false or misleading representations.

Submitter	Group	Comments
The Public Health Association of Australia (Kemmett)	Public Health - Australia	<ul style="list-style-type: none"> • Supports in-principle the adoption of Nutrient Profiling Model. Comments that much work has been invested in this model and it has strengths in terms of consistency with the dietary guidelines and some provisions towards core foods. • Wonders if the scoring system is ‘back to front’ and would it operate more logically if the qualifying nutrients were to be scored first and as a positive and then the disqualifying nutrients would then be scored as negatives and subtracted from the total? • Suggests that fruit juices and artificially sweetened soft drinks be disqualified from making claims. State that although fruit juices are not eligible for making high level claims related to fruit and vegetable intakes, they are permitted to make general level claims and other high level claims when nutrients are added. Particular concern here is that fruit juice fortified with calcium may make a health claim related to osteoporosis.
George Weston Foods Limited	Industry - Australia	<ul style="list-style-type: none"> • Recommends the inclusion of wholegrains in the calculation of fruit and vegetable (V) points. Wholegrains have been shown to positively contribute to health and therefore should be a consideration in the food composition claim eligibility. • Because the system is based on 100g, it discriminates against smaller serve size products. An alternative system should be proposed to accommodate products consumed in small quantities.
Mrs. Mac’s	Industry – Australia	<ul style="list-style-type: none"> • Considers the nutrient profiling model to be a very restrictive system that limits what foods can be promoted via health claims, due to an arbitrary take on what aspects of a food contribute or don’t contribute, as the case may be, to a healthy diet. • Feel that the beneficial nutrients in a meat pie are not given sufficient weight in the proposed model. Significant quantities of protein, iron, B12 etc. are negated completely by the baseline requirements for saturated fat and sodium. This goes against the stated outcome of ‘the model also takes into account the levels of beneficial nutrients’. • Has sought legal advice on this restriction that would occur on this point if the standard was approved – however, this was not received in time to be considered before this submission, and Mrs Mac’s reserve the right to make further comment pending that advice.
Murray Goulburn Co-operative	Industry – Australia	<ul style="list-style-type: none"> • Believes the proposed scoring system is generally reasonable. • However, recommends that the inequity in the scoring for cheese, whereby some cheeses meet the required score and others do not depending on their water content, can be improved by allowing cheese to claim points for vegetable, fruit, etc, content (V points), protein (P points) and dietary fibre (F points) as per category 2 foods whilst retaining a required score of less than 28. i.e. Final Score for cheese = baseline points – (V points – (P points) – (F points)). • Considers the proposed definitions for milk in Category 2 foods to be unclear. Appear to discriminate against milk products regulated under Standard 2.9.3 – Formulated Meal Replacements and Formulated Supplementary Foods and those enriched with ingredients such as plant sterols, omega-3 fatty acids and dietary fibre. • Recommends that all liquid milk products, and also all milk-based beverages regulated under Standard 2.9.3 are included as Category 2 foods in the scoring system.
Parmalat	Industry – Australia	<ul style="list-style-type: none"> • Welcomes the action taken by FSANZ to amend the approach adopted at DAR to assign an across- the- board eligibility scheme based on serving size to a more equitable and rational approach using a nutrient profiling scoring system.

Submitter	Group	Comments
		<ul style="list-style-type: none"> • Recommends: <ol style="list-style-type: none"> (1) FSANZ review nutrient profiling model 7 to provide a more equitable outcome for foods providing significant contribution to intake of 1 or more nutrients to the diet with allowances made for low intakes of energy, saturated fat, sugar, and sodium due to small serving sizes. Options for modification of Nutrient Profiling Model 7 include: <ol style="list-style-type: none"> (a) Additional bonus points for ‘energy per serve’ allowing claims on small serve size foods with low energy content per serve (AFGC proposal). (b) Inclusion of protein bonus points into Category 3, foods allowing claims to be made or most regular fat cheeses (Dairy Australia proposal) (2) FSANZ review the definition for milk covered in Category 2 to provide greater clarity as to the range of milk beverages captured under this category. This should encompass all liquid milk products currently permitted with the scope of the Code and include any liquid milks or milk beverages with or without added functional ingredients that can substitute in the diet for ‘Milk’ as defined in Standard 2.5.1. <p>Context to recommendations</p> <ul style="list-style-type: none"> • Notes that Model 7 discriminates on a number of foods which may be consumed in small serving sizes. These products could contribute significant quantities of micronutrients or other bioactive substances to the diet yet not impact greatly on intake of energy, saturated fat, total sugar and sodium. E.g. hard cheeses that are commonly consumed in small serving sizes (<100g) yet also contribute significant levels of calcium to the diet. • In the absence of any move to dismiss disqualifying criteria for general level claims, Parmalat would lend support to modify the current model to reduce the level of discrimination on foods with beneficial nutrients that are ineligible under the current criteria based on nutrient quantity per 100g, yet are normally consumed in small serve sizes. Modification could be based on bonus points for energy per serve as proposed by AFGC, and/or modified to allow protein points to be included in foods within Category 3, as proposed by Dairy Australia. • Secondly, reference is made to Schedule X, Scoring Criteria, Table 2, Food Product Categories. Note is made of the inclusion of ‘milk’ into Category 2 foods allowing it a final score of <4 points to be eligible for a health claims. This is certainly a positive move given its nutritional importance in the overall diet. • Considers the definition covering those milk products under Category 2 to be ambiguous. The current drafting suggests that any milk defined under Standard 2.5.1 (whole milk & skim milk), Standard 1.3.2 (modified milks with added vitamins A, D & calcium) or Standard 1.3.1 (liquid milk, liquid milk products with additives as permitted) fits into Category 2. This definition also states that ‘no other food additives or substances can be added’. Definitions for ‘modified milk’, ‘liquid milk’ and ‘liquid milk products’ are not covered in the Code and it is therefore not clear as to what liquid milk products are in fact covered under Category 2. • For example, whole milk with added bioactive nutrients such as Omega 3’s, fibre, probiotics would be relegated to Category 1 and be ineligible to make a health claim. Similarly milk based products compliant with compositional provisions of Standard 2.9.3 Formulated Supplementary Foods would not comply as Category 2 foods and due to the compositional constraint of requiring minimum energy content per serve, may be ineligible to make a health claim under Category 1.

Submitter	Group	Comments
		<ul style="list-style-type: none"> There are a number of white milk products with added functional ingredients currently in the marketplace, and these tend to substitute in the diet for whole milk. Considers it irrational that full cream milk with enhanced nutritional properties be rendered ineligible to make health claims if it is not afforded the same categorisation as whole milk.
Fonterra Co-Operative Group Limited	Industry – Australia & New Zealand	<ul style="list-style-type: none"> Endorses in principle the proposed nutrition calculator (Model 7) to determine food composition eligibility for health claims. However, suggests further refinements that would broaden the scope of products that are eligible for health claims to include foods that are more moderate than low in energy and fat, whilst being nutrient dense products – this would be consistent with basic health messages to the Australian and New Zealand populations. <p><u>Category 3 products:</u></p> <ul style="list-style-type: none"> Believe that Model 7 may need some minor refinement to allow public health policy to align with the desired nutritional food consumption patterns for the Australian/New Zealand populations. Notes that regular cheese is currently recommended as part of the dietary guidelines for children and adolescents – ‘<i>enjoy a wide variety of nutritious foods: include milks, yoghurts, cheese and alternatives</i>’, and semi hard cheeses such as Cheddars, Edam and Gouda are associated with the message of strong/healthy teeth and bones. Under the proposed system these cheeses are ineligible to make health claims as the cut-off score for high calcium cheeses is less than 28 points. Acknowledge FSANZ’s recognition of the public health objective to encourage appropriate intakes of calcium as well as other essential vitamins and minerals – and suggest the scoring system for category 3 products needs further refinement to determine which high calcium cheeses are eligible. Considers it an anomaly that under the proposed system Brie would be able to make a health claim, though Cheddar Cheese would not, despite containing 40% more calcium. Suggests FSANZ consider that from a public health perspective it would be preferable to promote the consumption of a nutrient dense food such as cheese that is moderate in energy, fats and sodium over foods that offer little in the way of nutrients beyond sugar, fat and sodium. Notes the natural health properties of cheese and research that indicates Cheddar-type cheese does not raise LDL cholesterol levels even in adults with moderately elevated cholesterol. Suggests that the following refinements be made: <ul style="list-style-type: none"> Bonus points be awarded for calcium content or even extended to include other key vitamins and minerals such as vitamin D (similar to category 2 system), Bonus points are awarded for protein (also similar to category 2 system). <p><u>Category 2 products:</u></p> <ul style="list-style-type: none"> Believes the framework for the nutrition calculator for category 2 products provides a reasonable base, but could be significantly improved to better reflect overall nutrient density of foods when scoring for eligibility. The current approach is limiting, paying focused credence to nutrient density sourced from fruit, vegetable, nuts and legumes – though it is a public health objective to increase consumption of these foods, higher nutrient density of food is not always derived from this source.

Submitter	Group	Comments
		<ul style="list-style-type: none"> • Believes the framework should support the eligibility of a wider range of health objectives in relation to nutrient, vitamin, mineral and bioactive substance intake. • Notes that current and emerging science indicates that foods other than fruits and vegetable, such as wholegrains, seeds, dairy products, meats and fish, contain not only essential vitamins and minerals but also antioxidants, flavonols and other bioactive substances essential for human development, health and wellbeing. Science is discovering and identifying more food components that contribute to essential human biological functions, as well as discovering that the role and function of some vitamins and minerals is beyond that traditionally thought. For example: <ul style="list-style-type: none"> – Vitamin D which is known to play a role in calcium absorption is now also thought to play a role in preventing the development of some cancers. – It is now also known that health bones are not only about calcium and vitamin D, but also other vitamins and minerals, as well as bioactives and other emerging functional substances. – Essential fatty acids such as conjugated linoleic acid are thought play a significant role in maintaining health. – Wholegrains are associated with a reduction in blood pressure, a protective effect against heart disease, reduction in stroke and diabetes/metabolic syndrome risk and weight management. • A healthy diet message should not preclude those foods which are considered occasional ‘treat’ foods or have small serve sizes, as these have the potential to provide significant health benefits within the overall diet – this supports the health message to ‘eat a wide variety of foods’ • Some of the small serve size products (excluding confectionery and ‘junk food’ type products) are consumed as meal replacements by consumers including those that are managing their weight. In this context it is advantageous for these products to be nutrient dense in vitamins, minerals essential fatty acids and the like. Protein content also plays a key role in managing satiety in these products, especially where the food is consumed in small serve size. • Strongly encourages FSANZ to review Model 7 category 2 with the view to allowing a wider variety of foods which support dietary guidelines and reflect current consumption patterns, to be eligible to make health claims. Suggest: <ul style="list-style-type: none"> – Removal of the restriction of gaining protein points only if maximum fruit and vegetable points are attained for food products with a base line score of ≥ 11. – Inclusion of wholegrain into the foods that can count towards V points. – Inclusion of a bonus points system for foods that are eligible to make content claims for a minimum of ‘good source’ of any vitamin, mineral or bioactive substance, with increased points for increased level and increased number of difference vitamins, minerals or bioactive substances that meet the minimum level requirements. – Inclusion of provision for small serve size foods where scoring is based on a per serve basis rather than per 100g with a maximum serve size stipulated for eligibility to be classified as a small serve size food.

Submitter	Group	Comments
		<ul style="list-style-type: none"> • Within the drafting of the Standard, under Scoring Criteria Part A – requires further clarification within table 2 to ensure modified milk products are clearly captured as category 2 products along with other milk products. The current wording may imply that only Milk as defined in Standard 2.5.1 or evaporated milk s or dried milks as defined in Standard 2.5.7 are category 2 products (whereas believe the intention is to capture all milks in category 2). • Recommends that Model 7 be reviewed by FSANZ on a periodic basis to ensure emerging science, innovation and public health information is considered to ensure the calculator remains relevant and up-to-date, including capturing any new or updated Standard in the Code in a manner which supports health objectives.
Foundation for Advertising Research	Research & Academia – Trans-Tasman	<ul style="list-style-type: none"> • Supports the use of the nutrient profiling calculator • Recommends that for selected products with a very low serving size, that application could be made to FSANZ to score the product per serving rather than per 100g. Examples given include Marmite and Vegemite which all have a small serving size and have nutritional benefits for children.
Foundation for Advertising Research	Research & Academia – Trans-Tasman	<ul style="list-style-type: none"> • Commends the nutrient scoring criteria for its application as a tool to determine whether a food is ‘healthy’ or not. For example - if a score of 4 or more is achieved for a food, or 1 or more for a beverage, then a claim cannot be made that the product is ‘healthy’ as the product would not be eligible to make a health claim. Believes this provides clear guide to the advertising industry, self-regulatory organisations and regulators.
Goodman Fielder Limited	Industry – Australia & New Zealand	<ul style="list-style-type: none"> • Support the removal of disqualifying criteria and its replacement with the nutrition profiling model. • Would like to see wholegrains included in the fruit and vegetable points or as separate criteria based on recommendations to increase the consumption of wholegrain and include more fibre in the diet. • Pleased to see milk as defined in Standard 2.5.1 included in category 2 • Concerned that yoghurt and dairy based beverages, particularly those in a small single serve shot, do not appear to be eligible to make health claims – propose that these single serve (non alcoholic) beverages in packages of 100 mL or less be included in category 2. Provides detail around the value of dairy based shot products and its role as a popular format for functional foods. • Supports the AFGC recommendation that a table for energy per serve be incorporated into the profiling tool to permit health claims on small size foods with low energy per serve. • Question the profiling system for relevance to analogues and liquid versions of food – recommend consideration as to how consistency can be introduced. For example - believe a yoghurt drink with is similar in composition to a tub yoghurt should be able to carry the same claims, but it is currently unable to do so due to classification as a beverage. And note that soy analogues are unable to make claims yet milk can as it is in category 2. • It would be helpful to include a definition of ‘beverages’ somewhere in the Code to clarify which foods are intended to be category 1 and category 2.

Submitter	Group	Comments
MasterFoods Australia New Zealand	Industry – Australia & New Zealand	<p>Considers two fundamental flaws in the PFAR that require amendment to be:</p> <ul style="list-style-type: none"> • The application of ‘disqualifying nutrients’ should be removed as it is unscientific, complex and inconsistent with basic dietary advice and existing public knowledge. Instead suggests that health claims should be permitted on all foods for which a substantiated health claim can be made. • If any ‘profiling criteria’ were deemed necessary, then it should be on a per serving basis rather than per 100g/mL, and be balanced in considering the potential positive and negative contributions of nutrients. • Gives an example describing: <ul style="list-style-type: none"> – USA MasterFoods Product CocoaVia™, which is formulated to contain heart-healthy cocoa flavanols and cholesterol-lowering plant sterols, however would be disqualified under the nutrient profile model due to the 100g criteria. The product has a portion size ranging from 20 – 25g and energy value of 85 -105 calories. – Consider that these innovative products, designed to provide healthy choices should be permitted to carry a nutrition or health claim based solely on that claim being justified. <p>Considers other relevant contributing points to be:</p> <ul style="list-style-type: none"> • Encouraging 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. Lower energy intakes makes achievement of an adequate intake of all essential nutrients from normally available foods, increasingly difficult. • The serving size of a nutrient dense product cannot be selected to be excessively small, as the serving must be sufficient to deliver the amount of the nutrient required to support the claim, providing a self control system. • The FSANZ proposal to base the ‘nutrient profiling’ on a per 100g/mL quantity is at odds with population health needs and general health recommendations. The use of a per 100g/mL basis will not encourage the development or promotion of nutrient rich products. If any ‘profiling criteria’ were to be deemed necessary, then it should be on a per serving basis.
MasterFoods Australia New Zealand	Industry – Australia & New Zealand	<ul style="list-style-type: none"> • 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.
Food and Beverage Importers Association Supported by Unilever Australasia	Industry - Australia	<ul style="list-style-type: none"> • Does not support the use of the proposed profiling model. • The model is based on an existing system used for a different purpose and will promote inconsistency with the rest of the world. • Given the number of food information programs that rely on nutrient profiling, there is the possibility of consumer confusion with a food being ‘healthy’ under one program but not under others. • Given that the cut-off points are arbitrary, foods may be placed in a less healthy category even though the difference between them is nutritionally insignificant.

Submitter	Group	Comments
Go Grains Health and Nutrition Limited	Industry - Australia	<ul style="list-style-type: none"> ● Recommends that FSANZ amend the scoring criteria for V points to allow for inclusion of wholegrains in the qualification calculation and to take account of foods containing dried fruit. ● Recommends that the word ‘wholegrains’ be specifically included in conjunction with the other listed foods that count towards V Points. ● Seeds are currently specifically listed as counting towards V points but wholegrains are not. ● Believes that the proposed scoring criteria disadvantage some breads that are made with dried fruit, e.g. Bakers Delight Apricot Delight does not meet the scoring criteria scoring of 5 points. This product contains no added sugar but is made using dried fruits. It has a ‘typical’ sodium content when compared to other breads / fruit breads. ● Although the scoring criteria claim to account for dried fruit via the V points, it is clear that the scoring criteria fail to adequately address this issue. These products would need to contain an inappropriately large quantity of dried fruit to affect scoring such that they could. Alternatively, changes to the formulation to reduce ‘negative’ nutrients such as sodium and kilojoules or to increase ‘positive’ nutrients such as fibre will be required for these products to qualify to carry health claims. ● As fruit loaf and similar products are often recommended by dietitians as a healthier alternative to other commonly eaten snack or breakfast foods, Go Grains recommends FSANZ conduct further nutrition profiling of such foods and amend the scoring criteria for V points to account for such products.
International Chewing Gum Association	Industry - International	<ul style="list-style-type: none"> ● Does not support the scoring criteria for general level health claims. ● Requests that the scoring criteria are not applicable to chewing gum, or alternatively, sugar free chewing gums only are exempt. ● If a categorical exemption is not possible, they request that if the ingredient resulting in the disqualification of the product is less than 1% of the DI per serve, the product is exempt from the scoring criteria. ● The ‘one size fits all’ approach is not rational or in line with the intent of the proposal when it is applied to chewing gum because of its small serve size. ● Some chewing gums contain the sodium salt of certain ingredients. Research has demonstrated the efficacy of these ingredients in preventing staining and in cleaning of teeth. A typical formulation of such products would be 300 mg sodium per 100 g chewing gum. This coupled with the energy value, even of sugar free gum, would result in 5 points (ineligible), yet the actual sodium intake per serve would be 9 mg (0.4%DI). ● This would not run foul of FSANZ original intent of setting up the scoring criteria because the consumption of chewing gum could not supply an unhealthy amount of energy, saturated fat, sugar or sodium due to the small serve size.

Submitter	Group	Comments
Kellogg (Aust) Pty Ltd	Industry - Australia	<ul style="list-style-type: none"> • Disqualifying criteria should only be applied if there is significant scientific evidence to support their inclusion on the particular claim being made. • Should a nutrient profiling system be imposed, Kellogg requests the following issues be addressed: <ul style="list-style-type: none"> I. No evidence has been provided that current nutrition claims are misleading consumers II. The proposed model is a modified version of the UK nutrient profile model which was vehemently contested by numerous stakeholders, including nutritionists. Suggests FSANZ contact the European Commission to more fully understand their reasons for rejecting the UK model and to work with them to develop a sound model. They can provide a contact person. . III. The proposed model disregards the importance of grain and cereal based foods in the diet – Kellogg proposes a modified points system for fibre to help address this. IV. The proposed model discriminates against grain and cereal based foods which have added fruit and/or nuts – Kellogg proposes a modified points system for fruit (and nuts) to help address this. V. The proposed model discriminates against products with small serve sizes – Kellogg proposes a modified inverse energy points system for products with portion controlled small serve sizes. • The above issues are addressed in detail in the submission. • Regarding issue number 3 above, Kellogg proposes an extension to the fibre point system to allow a maximum of 10 points (from 0 points for 0.9g fibre or less per 100 g, to 10 points for >9.7g fibre per 100g). This would reclassify foods such as All-Bran and Sultana Bran as eligible to carry health claims. • Regarding issue 4 above, the reasons for discrimination against fruit and nuts are (see submission for further detail about each of the reasons below): <ul style="list-style-type: none"> I. Adding fruit, particularly dried, increases the sugar content of food (see table on page 9 of submission); II. the current scoring system for fruit points provides minimal points for fruit content unless the product contains >67% concentrated fruit, which fails to consider technological feasibility; and III. adding nuts increases the energy content of food, and unless the product contains >40% nuts, they don't adequately compensate for the increased energy. • Therefore, Kellogg has developed an alternative dried fruit (table 2 on pg 10 of submission) and nuts points system (table 3 on page 10 of submission) for grain and cereal based foods. • Regarding small serve sizes (issue 5 above), Kellogg recommends compensation be offered for products with 'portion controlled' small serve sizes, e.g. an inverse energy points system ('credit' points) for energy per serve, to negate demerit points (see table 4, pg 11), from 5 points for <300 kJ per serve to 1 point for <1500 kJ per serve, where final score = baseline points –V points-P points-F points + energy/serve points. • If nutrient profiling was based on serve size, Kellogg does not consider that serve sizes would be a driving factor in meeting the nutrient profiling criteria and submission notes limitations to manufacturers of changing serve sizes. • The system should be based on a clear scientific rationale and should correctly identify foods which make a positive contribution to a healthy diet.

Submitter	Group	Comments
Nu-Mega Ingredients Pty Ltd	Industry - Australia	<ul style="list-style-type: none"> • Do not support an arbitrary system for defining foods eligible for carrying nutrition and health information. • If the proposed system is used, must ensure all milk-based beverages are included in category 2, including milks enriched with omega-3 fatty acids, plant sterols and dietary fibre. • Alternative milk products such as soy beverages should be category 2 foods for consistency. • Legumes should be included in the definition of ‘vegetables’, for clarity. The definition includes some legumes such as peas and beans but does not specifically include other forms of legumes.
Unilever Australasia	Industry – Trans Tasman	<ul style="list-style-type: none"> • Does not support development of a model that is contrary to scientific opinion. • The compensation of nutritional negatives with positives has no scientific basis. • The tool is a modification of an existing system used for a different purpose and will promote inconsistency with the rest of the world. • The basis being 100 g/mL means this does not consider the food in the quantity being consumed in one serve and it discriminates against foods with small serve sizes. • Notes positive feature that it permits foods to be profiled in the form in which it is to be consumed however this then has the potential to lose the power to discriminate between products. • Have discussed the FSANZ profiling tool with their European networks, resulting in correspondence directly with FSANZ. • Commend FSANZ in the work that has been done and recommend further investigation. • Cautions against trying to move ahead of international developments resulting in an inconsistent approach and a tool that selects products as being suitable or unsuitable to carry health claims that does not have a scientific basis. • Draws attention to the review of the UK FSA OFCOM profiling model that was publicised late last week.
The Public Health Association of Australia (Kemmett)	Public Health - Australia	<ul style="list-style-type: none"> • Concerned that certain foods may be able to qualify for a general level health claim on the basis of being able to be fortified and then claiming these added nutrients, e.g. protein to boost their nutrient score. Suggest that FSANZ amend the scoring system to prevent such practices from arising.

10. NUTRIENT PROFILING SCORING CRITERIA – CALCULATOR

Submitter	Group	Comments
Australian Nut Industry Council	Industry - Australia	<ul style="list-style-type: none"> • Recommends FSANZ includes directions in step 4 of the calculator, that all cells must be filled in with a number, even if the number is zero, otherwise this affects the results.
Horticulture Australia Limited (HAL)	Industry - Australia	<ul style="list-style-type: none"> • The electronic points calculator asks for % concentrated and % fruit, vegetables, nuts and legumes. These may be interpreted as mutually exclusive and data entered for either one or the other. When any of the cells are left blank, the calculated result is different to the manually calculated result. • When points are calculated for various dried fruit using the electronic calculator and without placing a zero in the % FV field, most are ruled ineligible to make a claim, yet when using a manual calculation or including a zero in the otherwise blank field, all are deemed eligible. • The need to place a value in each field, even when the value is zero, needs to be highlighted to reduce the risk of misclassification.
ADECRON Food Tech Consulting	Industry – New Zealand	<ul style="list-style-type: none"> • Calculator works well. • Confused by V points allocation. Suggests more elaboration and examples on line and in the guideline. Tried to calculate points for a baked product with 32% dried fruit, based on column one it would get 1 point, if reconstituted it would get 5 points (based on solids 32% sultanas is equivalent to 153% grapes(>80%)). Then tried calculating points with 17% fresh fruit and 25% dried fruit and got stuck. • Questions if there is an error in the formula on page 29? Formula for mixed concentrated and non-concentrated does not make sense at the bottom – is it meant to have concentrated twice? Might as well have said 3 times concentrated. • Notes that a cheese based at 28 when it should fail. • Has had odd and wrong results when not entering data for all 3 boxes in FVNL. Suggests the software is such that unless each box is filled, the calculation stops and pops up a reminder. • Add to the finished online calculator the option to add name of food and to get a dated/timed summary page with indicates how the points worked out. Then manufacturers can easily see how they need to improve things to get a ‘healthy’ score and file it.
Frucor Beverages Ltd	Industry – Trans Tasman	<ul style="list-style-type: none"> • The calculator is easy to use and provides a quick assessment tool. • Encourages FSANZ to gather further industry feedback on the use of the calculator once the standard is gazetted.
Heinz Australia and Heinz Wattie’s (Heinz)	Industry – Trans Tasman	<ul style="list-style-type: none"> • The calculator was found to be quick and easy to use. • Some additions to the calculator could provide further assistance and ease in use. • Instead of the final score and eligible/not eligible page at the end, it would be more useful to have a more detailed summary page including the baseline points and the V, P and F points. This would assist in reformulation of the product to meet the criteria. • It would be useful to be able to enter the product name or code that will then appear on the final summary page, along with the date. • If a food is eligible to carry a claim after the baseline points alone, it would be simpler to end it at this point rather than having to enter the V, P and F points.

Submitter	Group	Comments
Department of Human Services - Victoria	Government - Australia	<ul style="list-style-type: none"> • Pleased that FSANZ intends to further develop the disqualifying calculator and link it to the NIP calculator.
Go Grains Health and Nutrition Limited	Industry - Australia	<ul style="list-style-type: none"> • When determining the point value of a food, different scores can be achieved depending on whether the calculation is done manually or using the calculator. The reason for this appears to relate to the V point section of the calculator, where all cells must be filled in even if they are '0'. • Recommends it is clearly stated in the V point section of the calculator that all cells must be filled in and that the user can't progress to the next step unless all cells are filled in.
Kellogg (Aust) Pty Ltd	Industry - Australia	<ul style="list-style-type: none"> • The calculator is too basic to be of use to the food industry, particularly companies with large numbers of products. • Suggested improvements: <ul style="list-style-type: none"> – Provide the ability to be able to import data to reduce data imputing time and data entry errors – Provide the ability to display demerit and credit points for each nutrient, rather than just the total. This could be used to identify nutrients causing a product to fall short of qualifying and to find ways to bring borderline products into qualification – Would be more efficient if all products entered could be stored and printed out as required.

11. HIGH LEVEL HEALTH CLAIMS

11.1 Vegetable and fruit high level health claim

Submitter	Group	Comments
The New Zealand Food Safety Authority (Carole Inkster)	Government - New Zealand	<ul style="list-style-type: none"> • Seeks clarification. • States that in the current drafting these claims can only be used on products that are greater than or equal to 90% vegetable/fruit. When a meal product contains a serve of vegetable or fruit this product could not make these claims, however if that same vegetable/fruit was to be sold separately these claims could be made even though the end use of the vegetable/fruit is likely to be the same (i.e. part of a meal). Believes this to be inconsistent.
Australian Beverages Council Ltd Supported by Unilever Australasia	Industry - Australia	<ul style="list-style-type: none"> • Concerned that fruit juices are specifically excluded from permission to use these two claims. • Recommends removal of this exclusion because: <ul style="list-style-type: none"> – fruit juices provide a widely available source of antioxidants; – fruit juices are a convenient food sought by consumers and highly relevant to modern life; – technologies are now available to prepare juices with the same or similar nutrient profiles to whole fruit; and – to not include fruit juices ignores the fact that there is very significant variability in the quality of fruits and high quality juices are more nutritious than low quality fruit. • Refers to a document published in the Int. J of Food Sciences and Nutrition, May/June 2006: 57(3/4): 249-279 (attached to submission) in which it is concluded that the view that pure fruit and vegetable juices are nutritionally inferior to fruit and vegetable, in relation to chronic disease risk reduction, is unjustified.

Submitter	Group	Comments
Australian Fruit Juice Association (AFJA)	Industry - Australia	<ul style="list-style-type: none"> Requests that fruit juices be permitted to carry this claim. Some contain considerable amounts of fibre.
Australian Self Medication Industry	Therapeutic - Australia	<ul style="list-style-type: none"> Notes that this claim is not permitted on fruit juice and suggests this restriction be extended to fruit and vegetables that have been subject to desiccation and presented in spray dried powdered format to be sprinkled on other foods or reconstituted in water, often marketed as ‘Super Foods’ due to their concentrated state.
Campbell Arnott’s Asia Pacific	Industry - Australia	<ul style="list-style-type: none"> The current drafting regarding the association between fruits and vegetables and coronary heart disease discriminates against potentially nutritious foods such as soup by only allowing such claims on foods containing 90% fruits and vegetables. Foods containing significant proportions of vegetable, such as soup have a role to play in a healthy diet consistent with a reduction in health risks. Under the current proposal, products such as Frozen Oven Fries would potentially be allowed to carry a health claim whereas nutritious meal type soups like Campbell’s Country Ladle Minestrone, which contains 2 serves of vegetables equivalent to 150g per serving would not. Supports the need for stringent criteria consistent with NHMRC guidelines and the additional criteria of 2 serves of vegetables as qualifying criteria. Proposed amendment to the Table to Clause 7: <ul style="list-style-type: none"> (a) <i>Claims not permitted on fruit juice; and</i> (b) <i>The food contains no less than 90% vegetable and/or fruit by weight; or two serves of vegetable and/or fruit per serve of food; and</i> (c) <i>The food meets the scoring criteria in the Schedule to this Standard for making a health claim based on the food’s nutrient profile.</i>
Coles Supermarkets	Industry – Australia	<ul style="list-style-type: none"> Strongly supports the review as the basis for the proposed high level health claims for fruit and vegetables. This supports a number of public health messages (listed). Opposes the requirement to list ‘vegetables’ ahead of ‘fruit’ in the claim as the subtle difference will not be detected by consumers and this is unnecessarily prescriptive regulation.
CSIRO	Research and Academia – Australia	<ul style="list-style-type: none"> Supports permission of this high level claim as believes the evidence is strong.
Department of Health and Human Services - Tasmania	Government - Australia	<ul style="list-style-type: none"> Supports the inclusion of a pre-approved high level health claim for vegetables and fruit and coronary heart disease.
Department of Human Services - Victoria	Government - Australia	<ul style="list-style-type: none"> Supports the inclusion of a pre-approved high-level health claim for vegetables and fruit and coronary heart disease.
Foundation for Advertising Research	Research & Academia – Trans-Tasman	<ul style="list-style-type: none"> Supports this claim. Believes there should be no requirement for fruit and vegetables to be state in any particular order in health claims. Considers that insisting on the words ‘vegetables and fruit’ in that order will undermine the intention of the claim and not have the desired impact, and that the public do not relate to this term. Suggests it may subject FSANZ to public ridicule and incur substantial public relations costs from defending this position.

Submitter	Group	Comments
Frucor Beverages Ltd	Industry – Trans Tasman	<ul style="list-style-type: none"> • Acknowledge fruit juice is not permitted to carry the claim but note there is no restriction with the use of the claim on vegetable juice.
Horticulture Australia Limited	Industry - Australia	<ul style="list-style-type: none"> • Applauds the inclusion of the two new claims.
Horticulture Australia Limited (HAL)	Industry - Australia	<ul style="list-style-type: none"> • There are inconsistent definitions for fruit and vegetables in the Code. Prefer to see one clear definition for fruits, vegetables, nuts, seeds, fungi and legumes as separate entities and all reference to fruit and vegetables as a group to contain all these products. • The Fruit definition excludes berries where the seeds are on the outside of the flesh and should be amended to ‘fleshy edible portion that arises...surrounds the seeds and/or is surrounded by the seeds’. • Fruit definition should be changed to ‘base of the flower’ rather than ‘base and flower’. • Vegetable definition includes some legumes (peas and beans) but not others (ground nuts) and is not clear whether leafy greens include herbs. • Recommends inclusion of definitions for nuts, legumes, spices, seeds and herbs.
SA Department of Health	Government - Australia	<ul style="list-style-type: none"> • Supports inclusion of this pre-approved claim. • Are concerned about bioavailability and recommend more work is done to ensure the use of a pre-approved high level claim is only acceptable in the same food matrix and where the manufacturer holds the evidence of effect, e.g. does this claim apply to dried fruit – does it show the same level of protective effect?
South Australia Department of Health	Government - Australia	<ul style="list-style-type: none"> • Supports the inclusion of a pre-approved high level claim for vegetables and fruit and coronary heart disease.
Unilever Australasia	Industry – Trans Tasman	<ul style="list-style-type: none"> • It is difficult to tell from the information included in the report, the final opinion of the reviewers for this diet-disease relationship. • Notes FSANZ conclusion that there was a convincing inverse relationship. • It is difficult to tell from the report the rationale for FSANZ final conclusions.
Dietitians Association of Australia (Ms Kate Poyner)	Public Health - Australia	<ul style="list-style-type: none"> • Supports this claim.
New Zealand Dietetic Association (Jan Milne)	Public Health – New Zealand	<ul style="list-style-type: none"> • Agrees with the two pre-approved high level health claims relating to fruit and vegetable consumption.

11.2 Omega-3 fatty acid high level health claim

Submitter	Group	Comments
The Omega-3 Centre (Wendy Morgan)	Public Health – Australia and New Zealand	<ul style="list-style-type: none"> • Recommends that FSANZ gives urgent consideration to a high level health claim on the association of consuming fish and reduced risk of cardiovascular disease. • Recommends that FSANZ take greater account of experts with relevant scientific expertise. Comment: ‘Whilst the Scientific Advisory Group (SAG) is made up of high level scientific expertise, to our knowledge none of the members have a particular focus on Omega-3 fatty acids in their research whilst the authors of the scientific review of the evidence for long chain Omega-3s and CVD, Professor Howe and Dr Mori, are acknowledged experts in this area and have a wealth of knowledge and deep understanding of the subject’. • Notes that the scientific review for a high level health claim for vegetables and fruit and coronary heart disease (CHD) was based on 9 cohort studies and 4 case control studies with only ‘early’ support for the hypothetical mechanisms underlying a reduction in CHD risk associated with consumption of fruit and vegetables. Comment that this does not compare to the large number of high quality studies for Omega-3s, including observational studies, intervention trials and mechanistic studies. • Strongly recommends that FSANZ considers the implications of permitting greater consumer communications on the benefits of long chain Omega-3 fatty acids to help build awareness of the importance of these nutrients in the diet for optimal health and to reduce the risk of chronic disease in line with the NHMRC Suggested Dietary Targets for long chain Omega-3s. • Notes that several studies have now indicated the cost effectiveness for long chain Omega-3s’ intakes for secondary prevention of CVD and as a low cost, non-toxic preventative agent (DSEA, 2006, Lamotte, 2006, Quilici, 2006, Schmier, 2006, Studer, 2005, Plotnikoff, 2003, Franzosi, 2001). • Hopes that the report by Howe <i>et al</i> (2006) is considered. • Comments: ‘it appears as though the FSANZ policy is to require lower levels of evidence for high level health claims for whole foods as demonstrated with the vegetable and fruit related claims’. • If a high level health claim is not permitted for Omega-3s, recommend that urgent consideration be given to a high level health claim on the association of fish consumption and reduced risk of CVD as believe this evidence to be convincing.
Coles Supermarkets	Industry – Australia	<ul style="list-style-type: none"> • Supports a general level health claim about long chain omega-3 and cardiac health.
CSIRO	Research and Academia – Australia	<ul style="list-style-type: none"> • Supports the decision to permit a general level health claim
George Weston Foods Limited	Industry - Australia	<ul style="list-style-type: none"> • Acknowledges the FSANZ findings regarding the evidence for a general level health claim for omega-3s and cardiac health. • Supports the Omega-3 Centre’s request to reconsider the evidence for this diet disease relationship. • The use of a high level health claim for long chain omega-3 has the potential to improve consumer awareness of the need to consume it. The use of a high level health claim relating to long-chain omega-3 to cardiovascular disease is in line with NHMRC recommendations to increase intake of long chain omega-3s to reduce the risk of chronic disease.

Submitter	Group	Comments
New Zealand Food and Grocery Council (NZFGC) Supported by Unilever Australasia	Industry – New Zealand	<ul style="list-style-type: none"> • FSANZ should have provided more robust evidence as to why it concluded ‘the evidence relating to long chain omega-3 fatty acid composition in reduction in the risk of CVD is ‘probable’ but not convincing.’ • Further input and consideration of this claim is needed.
Nu-Mega Ingredients Pty Ltd	Industry - Australia	<ul style="list-style-type: none"> • Notes there is a need for a consistent approach to assessing the evidence for high level health claims. • Believes that the experts, contracted by FSANZ to review the scientific evidence for Omega-3 fatty acids, demonstrated a ‘convincing’ level of evidence for a HL health claim for Omega-3 fatty acids and reduced risk of cardiovascular disease. • Has compared the evidence for other approved health claims and believe that there is an inconsistent approach in the level of evidence required. • In the context of this claim not being approved, consideration should be given to a claim for the association between fish consumption and cardiovascular disease. • This is a whole food approach and will help raise the public’s awareness of the link between the nutritional contributions of fish to reduced risk of heart disease. • Supports a general level health claim for long chain omega-3 fatty acids and cardiovascular health, in the absence of a high level health claim. This should be limited to long chain omega-3 fatty acids.
Queensland Health	Government - Australia	<ul style="list-style-type: none"> • Does not agree that omega-3 fatty acids and cardiovascular disease claims, which are not supported as a high level claim, should be allowed as a general level claim. Consumers are likely to associate claims around heart health with cardiovascular disease.
SA Department of Health	Government - Australia	<ul style="list-style-type: none"> • If the high level claim can’t be supported, then allowing general level claims is unwise. • The public will associate general level claims around heart health with ‘cardiovascular disease’, without the need for those words.
Simplot Australia Pty. Ltd.	Industry - Australia	<ul style="list-style-type: none"> • Supports Omega-3 Centre’s submission. • Recommends that FSANZ give urgent consideration to a high level health claim on the association of consuming seafood (fish <u>and</u> shellfish) and reduced risk of cardiovascular disease. • Disappointed that FSANZ considers the evidence as ‘probable’ but ‘not convincing’. In future it is hoped that the report by Howe et al (2006) is reconsidered along with the rationale for the NHMRC suggested dietary targets for long chain omega-3 fatty acids that may help in prevention of chronic disease.
South Australia Department of Health	Government - Australia	<ul style="list-style-type: none"> • Considers that if a high level claim for omega-3 and cardiovascular disease cannot be supported, then allowing general level health claims is unwise. • As with weight management, the general public will associate general level health claims around heart health with cardiovascular disease without the need for industry to use the words.

Submitter	Group	Comments
Unilever Australasia	Industry – Trans Tasman	<ul style="list-style-type: none"> Notes the Howe et al conclusion that in its totality there is convincing evidence but that following publishing of more recent reviews, FSANZ now rates this as ‘probable’. It is difficult to tell from the report the rationale for FSANZ final conclusions.
Dietitians Association of Australia (Ms Kate Poyner)	Public Health - Australia	<ul style="list-style-type: none"> Hopes that this area is reviewed within 2 years as this is an area of continuing research and a level of convincing evidence may be achieved within the next couple of years. If this area is reviewed, would like to see oily fish included as a separate category in the review.
Seafood Services Australia (Ted Loveday)	Industry - Australia	<ul style="list-style-type: none"> Believes claim should apply only to long chain Omega 3 fatty acids for which there is scientific support (EPA, DPA and DHA) Advises that there is little if any scientific evidence to support a claim for short chain and some long chain Omega 3 fatty acids. Supports United Kingdom model Reports that international experts at a recent workshop concluded there to be strong evidence that a diet including fish provides cardiovascular benefits and other positive health outcomes.
The Cancer Council Australia (Kathy Chapman, Sarah Mackay, Terry Slevin) Supported by the Cancer Council Western Australia	Public Health - Australia	<ul style="list-style-type: none"> At a loss to understand FSANZ’s rationale for allowing general level health claims that only meet the ‘probable’ level of evidence. Urges FSANZ to adjust this in the final standard. Questions if consumers be able to differentiate between a claim for a product containing omega 3 fatty acids as being good for ‘heart health’ but not convincing for ‘heart disease’? Recommends that any health claim a manufacturer seeks to make must meet the ‘convincing’ or ‘definite’ level of evidence before the claim can be made.
The New Zealand Food Safety Authority (Carole Inkster)	Government - New Zealand	<ul style="list-style-type: none"> Quotes ‘<i>FSANZ considers that the evidence relating to long chain omega-3 fatty acid consumption and reduction is risk of cardiovascular disease is ‘probable’ but not ‘convincing’. Thus there is sufficient evidence to support a general level health claim for the diet disease relationship between long chain omega-3 fatty acids and cardiac health...</i>’ Comments that there is no mention of this in the Draft version. Seeks clarification as to where this information will be captured as well as manufacturer’s obligations regarding substantiation if a general level health claim is made.

11.3 Wholegrain high level health claim

Submitter	Group	Comments
Coles Supermarkets	Industry – Australia	<ul style="list-style-type: none"> Recommends FSANZ reconsiders the evidence for a high level health claim for wholegrains and heart disease. Refers to Go Grains submission regarding this.

Submitter	Group	Comments
CSIRO	Research and Academia – Australia	<ul style="list-style-type: none"> • Of all HLC, FSANZ’s decision to disallow this one caused most concern. • CSIRO has concluded via report by Topping that there is sufficient evidence to support this HLC (Flight I & Clifton P. Cereal grains and legumes in the prevention of coronary heart disease and stroke: a review of the literature. <i>Eur J Clin Nutr</i> 2006; 60:1145-69) • Claims FSANZ made their conclusion that any relationship between whole grains and heart disease was based on a few observational studies. Claims this is paradoxical since the evidence for a relationship between fruits and vegetables and lowered risk of heart disease seems to come largely from large prospective studies over long periods of time. These studies are similar to those which have been discounted for wholegrains. • Also in the fruit and vegetable studies, a mixture of fruits and vegetables were examined with intakes being measured on a ‘portion’ or ‘per serve’ basis. This is similar to the measures used for wholegrains which also makes the proposition that they (but not fruit and vegetables) be regulated as biologically active substances anomalous. • Since release of PFAR, a meta-analysis of the relationship between wholegrain intake and cardiovascular disease has been published (Mellen PB, Walsh TF, Herrington DM. Whole grain intake and cardiovascular disease: a meta-analysis. <i>Nutr Metabolism Cardiovasc Dis</i> 2007: ePub ahead of print) • Paper examines 7 studies which include over 280,000 individuals followed for a minimum of 6 yrs. Conclusions are consistent with substantial number of review articles which have concluded that consumption of whole grain foods is protective against heart disease. As for fruits and vegetables, the active ingredients remain unidentified.
General Mills Australia Pty Ltd and General Mills New Zealand Ltd Cereal Partners Worldwide Nestlé	Industry – Trans Tasman	<ul style="list-style-type: none"> • Disagrees that there is not enough evidence to support a high level claim for wholegrain and bran intake and coronary heart disease and urges FSANZ to reconsider. • Note the expert review by David Topping concluded the evidence for this claim was convincing and a high level claim justified. • Why has FSANZ accepted the evidence for a fruit and vegetable claim but disputed the evidence for the wholegrain high level claim? • FSANZ should also have explored the relationship between types of fibre (soluble fibre) and cardiovascular disease as this type of claim has been thoroughly reviewed and is permitted in jurisdictions where health claims are allowed to be made on foods.
George Weston Foods Limited	Industry - Australia	<ul style="list-style-type: none"> • Supports Go Grains request for FSANZ to reconsider the evidence relating to this diet-disease relationship. The use of a high level health claim may be of assistance in improving consumer acceptability of wholegrain products and improve consumer understanding of the health benefits associated with consumption of wholegrain foods. Increasing wholegrain intake is consistent with recommendations such as the Australian Dietary Guidelines: ‘Eat plenty of cereals, preferably wholegrain’. • Notes the recent review which found positive associations between dietary wholegrain intake and coronary heart disease.

Submitter	Group	Comments
Go Grains Health and Nutrition Limited	Industry - Australia	<ul style="list-style-type: none"> • Recommends that FSANZ take a consistent approach to assessing the evidence supporting high level health claims and reconsider the evidence for a high level health claim for wholegrains and heart disease. • Questions the basis on which FSANZ considers there is convincing evidence for an inverse relationship between a diet containing fruit and vegetables and coronary heart disease, but rejects equivocal (or stronger) evidence for wholegrains. • See Attachment 2 to submission – comparison of meta-analyses for wholegrains vs. fruit and vegetable and CHD. • See Attachment 3 to submission – Taking a consistent approach to the evidence, which provides responses from Go Grains to each of the comments provided by FSANZ in attachment 5 of the Report. • Notes the report prepared by David Topping about wholegrains and heart disease concludes that the data are convincing and justify a health claim for whole grains offering protection against CHD. The prospective studies show convincingly that whole grain consumption protects against CHD in a dose dependent manner with overall reductions of 20-30%. • A further recently published meta-analysis of studies (Mellen 2007 – see document attached to submission) that sought ‘to quantitate the available observational evidence on whole grain intake and clinical cardiovascular events’ also concludes there is ‘a consistent, inverse association between dietary whole grains and incident cardiovascular disease in epidemiological cohort studies’. • There is strong supporting evidence that whole grain consumption also leads to improved blood glucose control and less obesity. Both of these are risk factors for coronary heart disease. • The scientific review for a high level health claim for vegetables and fruit and coronary heart disease was based on 9 cohort studies and 4 case control studies with only ‘early’ support for the hypothetical mechanisms underlying a reduction in CHD risk associated with consumption of fruit and vegetables.
New Zealand Food and Grocery Council (NZFGC) Supported by Unilever Australasia	Industry – New Zealand	<ul style="list-style-type: none"> • FSANZ should have provided more robust evidence as to why it concluded ‘the evidence relating wholegrain and bran to a reduction in cardiac heart disease is not convincing’ • Further input and consideration of this claim is needed.
Sanitarium Australia/New Zealand	Industry – Australia/New Zealand	<ul style="list-style-type: none"> • Concerned FSANZ has misinterpreted its own report in concluding that the diet disease relationship regarding wholegrains as not convincing (quotes statement from contracted report which states there is convincing evidence) • Considers that the lack of a link of biomarkers specifically to whole grain consumption is similar to that for fruits and vegetables • Urges FSANZ to reconsider the evidence of its own study and factor any uncertainties on the same basis performed with regards to fruits and vegetable claims. • Recommends that FSANZ allocate resources to assess other well-substantiated high levels health claims such as soy protein and heart disease/cholesterol and soluble fibre and heart disease, both of which have been approved by the US FDA.
Unilever Australasia	Industry – Trans Tasman	<ul style="list-style-type: none"> • There is no definitive statement about the review outcome for this relationship. • Notes the FSANZ conclusion and that it is difficult to tell from the report the rationale for FSANZ final conclusions.

Submitter	Group	Comments
Dietitians Association of Australia (Ms Kate Poyner)	Public Health - Australia	<ul style="list-style-type: none"> • Comments: ‘in the FSANZ Technical report: Diet-Disease Relationships (attachment 5), the conclusion (p7) states ‘ the relationship between a higher intake of wholegrains and a reduction in coronary heart disease is not convincing and therefore a health claim has not been substantiated’. One of the reasons for this conclusion was that there was an insufficient number and range of study types used as an evidence base. A new meta-analysis (1) indicates that there is consistent evidence linking the consumption of wholegrain to significant decreases in the risk of cardiovascular disease. One of the key messages from the paper is the need for policy-makers to redouble their efforts to motivate the public to eat more wholegrains. Consumption of at least 2.5 servings of wholegrains per day was associated with a 21% reduction in the risk of cardiovascular events compared to the consumption of just 0.2 servings per day. • Requests that FSANZ re-evaluate the evidence base underlying the decision not to allow high level health claim of wholegrains and coronary heart disease to be permitted. • Suggests an alternative would be for FSANZ to modify the claim and limit it to some wholegrains such as oats and barley where there is more convincing evidence than for wholegrains as a group. <p>Reference 1. P.B. Mellen, T.F. Walsh and Herrington, D.M. Whole grain intake and cardiovascular disease: a meta- analysis. Nutrition, metabolism and cardiovascular diseases. Published on line, doi : 2006.12.008</p>
The National Heart Foundation of Australia (Anne-Marie Mackintosh) Supported by The National Heart Foundation of New Zealand (Anna Malan)	Public Health - Australia	<ul style="list-style-type: none"> • Notes that the scientific review for a high level health claim for vegetables and fruit and coronary heart disease (CHD) was based on 9 cohort studies and 4 case control studies with only ‘early’ support for the hypothetical mechanisms underlying a reduction in CHD risk associated with consumption of fruit and vegetables. Believes this does not compare to the large number of high quality studies for wholegrains, including experimental studies, observational studies, and short-term intervention studies. • Requests that FSANZ reconsider the report findings by David Topping of the Diet-disease relationship between wholegrain intake and risk of coronary heart disease given that on p18 it states ‘although there are no randomised control trials of the effects of wholegrain consumption on CHD events, it is concluded that evidence for a protective effect of wholegrains against CHD is convincing.’ • Comments: ‘a recent paper (1) of a new meta-analysis indicates there is consistent evidence linking the consumption of wholegrain to significant decreases in the risk of cardiovascular disease. In fact, the paper cites policy- makers to redouble their efforts to get the public eating more wholegrain. A consumption of at least 2.5 servings of wholegrains daily was associated with a 21% reduction in the risk of cardiovascular events compared to consumption of 0.2 servings per day. <p>(1) P.B. Mellen, T.F. Walsh and Herrington, D.M. Wholegrain intake and cardiovascular disease: a meta-analysis. Nutrition, metabolism and cardiovascular diseases. Published on line, doi : 2006.12.008</p>

11.4 General comments

Submitter	Group	Comments
Campbell Arnott's Asia Pacific	Industry - Australia	<ul style="list-style-type: none"> Endorses the proposed approach to the management of high level health claims, providing the proposed amendments to the FSANZ Act to protect innovation are in place prior to gazettal of the Standard. In order to maintain competitive advantage and encourage innovation, it is essential that submissions on new high level health claims be treated in commercial confidence to avoid the 'free rider' effect when such information is published.
Department of Agriculture, Fisheries and Forestry (DAFF)	Government - Australia	<ul style="list-style-type: none"> Supports the pre-approval of a number of high level health claims for inclusion in the proposed standard. Notes that increasing the number of pre-approved high level health claims available for use by industry will reduce costs to businesses in meeting substantiation requirements and will, therefore, allow more products to carry these claims. Having access to pre-approved claims will be particularly important for small businesses.
Dietitians Association of Australia (Ms Kate Poyner)	Public Health - Australia	<ul style="list-style-type: none"> Seeks clarification as to the on-going process for claims regarding diet-disease relationships: <ol style="list-style-type: none"> Review of high level claims for diet-disease relationships Mechanisms to re-evaluate claims that were not substantiated at this stage as new evidence becomes available Methods for new diet-disease relationships to be evaluated where the application is not put forward by industry.
Fonterra Co-Operative Group Limited	Industry – Australia & New Zealand	<p>Endorses in-principle the framework proposed in draft Standard 1.2.7 clause 7. However, make two recommendations:</p> <ul style="list-style-type: none"> Amendments be made to the nutrient profile scoring criteria (as described above). The requirement for the 'healthy diet' context be removed from column 3. Supports in principle the health message of consuming a wide variety of food, but believes the main thrust for education should come from health professionals, utilising media (such as TV, radio, magazines, internet and promotional/educational events) where there is greater potential to provide much needed detail and endure messages are meaningful and relevant to the needs on the individual consumer. In addition there may be difficulties fitting these statements on a label without overwhelming the consumer with text. Hence suggest that 'healthy diet' context messages should be voluntary rather than mandatory. <p>In addition, recommends the following processes are incorporated into the management of diet disease relationships:</p> <ul style="list-style-type: none"> Annual review of emerging diet disease relationships and whether there is enough evidence available to add new substantiated diet disease relationships to Standard 1.2.7. The availability of a financially accessible and timely process for applications from stakeholders for review of new substantiated diet disease relationships proposed for inclusion into the Standard. Ensure the facility remains for organisations to patent formulations of particular nutritional combinations as they related to substantiated diet disease relationships.
George Weston Foods Limited	Industry - Australia	<ul style="list-style-type: none"> FSANZ must adopt a consistent approach to reviewing scientific evidence for high level health claims. Considers that FSANZ has been inconsistent in their approach to the evidence for fruit and vegetable intake and cardiovascular disease compared to the evidence for wholegrains and omega-3 and cardiovascular disease. Supports the omega-3 centre recommendation that FSANZ consult experts with relevant scientific expertise for review of high level claims.

Submitter	Group	Comments
Goodman Fielder Limited	Industry – Australia & New Zealand	<ul style="list-style-type: none"> Concerned that plant sterols are not mentioned in the substantiated diet-disease relationships and claim statements for high level claims. Consider it is inconsistent to approve these ingredients which are shown to reduce cholesterol absorption, yet make no specific provision for manufacturers to make high level claims and educate consumers as to their scientifically proven health benefits. Would appreciate clarification as to whether FSANZ intends to permit the claims currently made in relation to cholesterol on their Logicol Yoghurt range, current on the market in Australia, under the new Standard 1.2.7.
Meat and Livestock Australia	Industry - Australia	<ul style="list-style-type: none"> Unclear when changes in FSANZ Act in relation to ‘commercial in confidence’ data would be approved. Does not agree that the pre-market assessment for high level claims should involve two rounds of public consultation as this is likely to jeopardise commercial confidentiality, be time-consuming and slow down innovation. Recommends that the pre-market assessment be conducted by FSANZ in conjunction with an independent panel of experts. Recommends that food manufacturers/marketers have the opportunity to liaise with FSANZ (or key members of the Expert Panel) prior to research being conducted and/or a submission being prepared for high level health claims for guidance.
New Zealand Dietetic Association (Jan Milne)	Public Health – New Zealand	<ul style="list-style-type: none"> Believes that the scientific advisory group of FSANZ has sufficiently researched the evidence behind the high level health claims.
New Zealand Ministry of Health (Cynthia Maling)	Government – New Zealand	<ul style="list-style-type: none"> Supports the four high-level diet-disease relationships described at draft assessment, as well as the new diet-disease relationship for vegetables and fruit with coronary heart disease.
Sanitarium Australia/New Zealand	Industry – Australia/New Zealand	<ul style="list-style-type: none"> Supports the additional pre-approved claims, but considers criteria for assessing evidence has not been consistently followed
South Australia Department of Health	Government - Australia	<ul style="list-style-type: none"> Notes that the Draft Assessment Report proposed that a high level claim will, once approved by FSANZ, be available for use generally by food industry. Concerned regarding the issue of bioavailability; it is recommended that more work be done to ensure that the use of a pre-approved high level claim is only acceptable in the same food matrix. (E.g. whole wheat cereal as opposed to milk or dairy products) and also only where the manufacturer holds evidence of effect (as per other general level claims). For example ‘a diet rich in fruit and vegetables’ – does this apply to dried fruit? And does dried fruit show the same level of protective effect?
The National Heart Foundation of New Zealand (Anna Malan)	Public Health – New Zealand	<ul style="list-style-type: none"> Pleased that a number of diet-disease relationships were pre-approved including saturated fatty acids/trans fatty acids and LDL cholesterol, vegetables and fruit and coronary heart disease, and sodium and blood pressure.

Submitter	Group	Comments
Unilever Australasia	Industry – Trans Tasman	<ul style="list-style-type: none"> Attachment 5 does not provide a transparent account of the reasoning behind the FSANZ recommendations for the three remaining high level health claim reviews. From the limited information provided in this report, it is difficult to understand what the independent scientific review recommendations were and the rationale behind the FSANZ final recommendations. Questions the reasoning behind applying specific qualifying criteria for each high level health claim carried over from nutrition content claims, then overlaying this with the nutrient profiling criteria. This tool has only recently been developed and has not formed part of the substantiation process for these claims.
The Public Health Association of Australia (Kemmett)	Public Health - Australia	<ul style="list-style-type: none"> Concerned that it is now proposed to reduce the public consultation opportunities associated with the assessment of high level health claims. Believes the proposed procedure to place assessment with a so-called ‘panel of experts’ creates potential conflict of interest issues and a lack of transparency. States that FSANZ needs to ensure that public health and consumer interests are strongly represented on such panels. Concerned that certain foods may be able to qualify for a general level health claim on the basis of being able to be fortified and then claiming these added nutrients, e.g. protein to boost their nutrient score. Suggest that FSANZ amend the scoring system to prevent such practices from arising.
The New Zealand Food Safety Authority (Carole Inkster)	Government - New Zealand	<ul style="list-style-type: none"> States that in the Table to clause 7 under the Conditions for Folic acid and neural tube defect the additional foods permitted to contain phytosterol esters or tall oil phytosterols which have been gazetted since the DAR (as per Amendments 89 – 2006) have not been excluded. Suggests that the text is amended to include a generic exclusion of foods containing phytosterol esters or tall oil phytosterols. This removes the need to update this Table if further permissions are granted in the future.
Coles Supermarkets	Industry – Australia	<ul style="list-style-type: none"> Suggests that the dietary context of the claim is amended such that the claim can recommend that women consume either at least 670 micrograms of dietary folate or 400 micrograms of folic acid daily and that both these amounts are not required in a single label claim, for clarification.

12. SUBSTANTIATION FRAMEWORK

Submitter	Group	Comments
Community and Public Health, Canterbury District Health Board	Public Health – New Zealand	<ul style="list-style-type: none"> Substantiation of general level health claims needs to be assessed by a technical body and not by the enforcement body. Alternatively the claim needs to be pre-approved.

Submitter	Group	Comments
SA Department of Health	Government - Australia	<ul style="list-style-type: none"> • Was not detailed in the Draft Assessment Report and therefore not subject to public consultation. • Needs to ensure that the definition of ‘convincing’ evidence is not open to interpretation and that it will constitute ‘proof’ under criminal law. • For this reason does not support the proposal for general level health claims to require a level of evidence as ‘probable’. Under this definition, industry will be able to claim a wide range of health claims as long as they can produce some supportive papers. Prosecution will be impossible leaving health claims unenforceable. • Recommends commonly used general level health claims, e.g. about iron and calcium, be set out in guidelines to the standard, with pre-approved wording.
Department of Health and Human Services - Tasmania	Government - Australia	<ul style="list-style-type: none"> • The proposed Substantiation Framework was not detailed in the Draft Assessment Report and appears not to be subject to public consultation. The proposed framework need to ensure that the definition of ‘convincing’ evidence is not open to interpretation and that it will constitute ‘proof’ under criminal law. As violations of the Code, under the Food Act are considered criminal offences, prosecution requires demonstrating beyond a reasonable doubt that the Code has been violated. • For the same reason, do not support the proposal for general level health claims to require a level of evidence as ‘probable’. Under this definition industry will be able to claim a wide range of health claims as long as they can produce some supportive papers. • Has grave concerns surrounding the enforceability of a Standard that relies on a balance of scientific evidence which is un-provable. Violations of the Food Act leave the burden of demonstrating proof beyond reasonable doubt falling to prosecutors. Scientific evidence is rarely considered proof, making prosecution almost impossible, particularly for general level health claims which require only a ‘probably’ level of evidence.
New South Wales Food Authority	Government - Australia	<ul style="list-style-type: none"> • Strongly objects to the use of subjective language in the Substantiation Framework for substantiating general level and high level health claims. The boundary and inclusiveness of the terms ‘convincing’ and ‘probable’ for substantiating such claims should be clearly defined in legal terms. • Suggest that FSANZ address this matter prior to consideration of Proposal P293 by the FSANZ Board.
South Australia Department of Health	Government - Australia	<ul style="list-style-type: none"> • Comments provided are essentially the same as for the Department of Health and Human Services – Tasmania.

Submitter	Group	Comments
Department of Human Services - Victoria	Government - Australia	<ul style="list-style-type: none"> • In relation to enforceability of general level health claims, seeks a clear and nationally understood method for enforcement and compliance. Recommend that FSANZ obtain independent legal advice about whether and how the standard can be enforced and what precisely constitutes compliance. If an organisation/company utilises the methodology prescribed in the standard, will that organisation/company be deemed to comply? • Believes that correct use of the Nutrient Profiling Calculator followed by adherence to all the steps of the Substantiation Framework (in line with accepted ‘best practice’ as demonstrated in a ‘data book’ as outlined above) ought to be deemed compliant. This standard will be unworkable if jurisdictions are expected to measure compliance beyond that i.e. makes judgements about the relative merits of scientific papers and whether the claim is scientifically ‘proven’. • In addition, the substantiation framework must incorporate a standard, accepted methodology that is reputable and scientifically robust. Adherence to this methodology should not result in significantly different outcomes if conducted by different parties. Victoria requests consultation in the development of any guidelines for this substantiation framework. Additionally, we recommend input should also be sought from industry groups and academics experienced in critical analysis of scientific literature. • Seeks assurance from FSANZ that industry will be closely involved in the development of the user guidelines relating to the Substantiation Framework. Victoria concurs with industry views that a data book of case studies would be invaluable in setting expectations for preparation of dossiers relating to substantiating general level health claims. It is understood that industry is offering to work collaboratively with enforcement agencies and FSANZ during the early days of implementation of the standard to build such a data book. This will not only assist in building industry allegiance to the new regulation but would also provide evidence of accepted ‘best practice’ for use by a court in any future legal dispute.
Queensland Health	Government - Australia	<ul style="list-style-type: none"> • Has concerns in relation to the Substantiation Framework. The final details will not be available until the Final Assessment Report and therefore not subject to consultation. • Does not support the proposal for general level health claims to meet a level of evidence that is ‘probable’. This would allow industry to make health claims as long as they can produce some supporting evidence. This presents significant regulatory challenges for enforcement.
Simplot Australia Pty. Ltd.	Industry - Australia	<ul style="list-style-type: none"> • Consideration should be given to the level of evidence required for high level claims, as there appears to be an inconsistent approach between the permitted ‘Fruits, vegetables and coronary heart disease’ claim and the ‘Long chain omega-3 fatty acids and cardiovascular disease’ claim which was not supported.
Food Technology Association of Victoria Inc (David Gill)	Industry - Australia	<ul style="list-style-type: none"> • Considers that proof of a claim must be based on the ability of the claimant to show that claims are based on credible, reproducible and robust data. • States that there must be empirical or established proof presented for a contested claim.
New Zealand Ministry of Health (Cynthia Maling)	Government – New Zealand	<ul style="list-style-type: none"> • Disappointed the revised substantiation framework was not included in the PFAR and subject to public consultation. • Does not support ‘probable’ evidence as sufficient evidence for general level health claims. Believe consumers do not understand the difference between general and high-level health claims. Therefore, the level of scientific evidence should be unequivocal or ‘convincing’ for both high and general level health claims. • Believes it is irresponsible to allow any type of health claim based on ‘probable’ evidence, particularly when claims are made for a single food and other dietary and lifestyle behaviours could offset any benefit from the food.

Submitter	Group	Comments
		<ul style="list-style-type: none"> States that to ensure health claims are truthful and easily understood by consumers, both general and high-level health claims should be subject to a rigorous pre- approval process. Believe this process should involve more stringent criteria for substantiating claims (e.g. PASSCLAIM – process for the assessment of scientific support for claims on foods) than the criteria outlined at draft assessment. State this process should also include scientific experts, and consumer research regarding understanding and usefulness of specific claims.
Private (Jack Ward)	Consumer - Australia	<ul style="list-style-type: none"> Believes the framework and the wording of the standard will need to be carefully considered if the standard is to be enforced. Comments that a supplier will in most cases be able to find information supporting a claim via the internet, regardless of the date of source of that information. States that the framework must give clear guidance as to which bodies or agencies should be the final arbiters, or which sources are considered as being able to provide information to substantiate a claim.
The Cancer Council Australia (Kathy Chapman, Sarah Mackay, Terry Slevin) Supported by the Cancer Council Western Australia	Public Health - Australia	<ul style="list-style-type: none"> Supports the comprehensive substantiation framework developed by FSANZ. Concerned that following on from the Bethwaite review, that there be no change in the procedure to remove public consultation for high level health claims and instead place assessment with a so-called ‘panel of experts’ which in turn creates potential conflict of interest issues and lack of transparency.
The New Zealand Food Safety Authority (Carole Inkster)	Government - New Zealand	<ul style="list-style-type: none"> States that it is disappointing that the amended substantiated framework document is not included in the PFA for public comment. Agrees with the intent of changes to be made to the substantiation framework document. Suggest that targeted consultation should be carried out to ensure that the intent is captured in the drafting and a user friendly document is produced. NZFSA would be keen to see this document. Agrees with FSANZ’s recommendation that the minimum level of evidence to support a general level health claim be established at ‘probable’.
Complementary Healthcare Council of Australia (Allan Crosthwaite)	Other - Australia	<ul style="list-style-type: none"> Believes there is a need to be able to justify health claims with consideration to shelf life, particularly where manufacturers make claims relating to biologically active substances, and where the product has a long shelf life.
NSW Centre for Public Health Nutrition (Dr Vicki Flood)	Public Health Australia	<ul style="list-style-type: none"> Believes standardised approaches to analyse nutrients should be developed and documented in the Code. Recommends the laboratory analysis of nutrients to be done in either government-owned or government-appointed laboratories to avoid discrepancies in values obtained from different testing facilities.
The Cancer Council Western Australia (Terry Slevin)	Public Health - Australia	<ul style="list-style-type: none"> Recommends that any health claim a manufacturer seeks to make must meet the ‘convincing’ or ‘definite’ level of evidence.
George Weston Foods Limited	Industry - Australia	<ul style="list-style-type: none"> Suggests that industry should be able to print off calculations made on the FSANZ website calculator to hold as part of the substantiation process for health claims

Submitter	Group	Comments
Fonterra Co-Operative Group Limited	Industry – Australia & New Zealand	<ul style="list-style-type: none"> No further comment
General Mills Australia Pty Ltd and General Mills New Zealand Ltd Cereal Partners Worldwide Nestlé	Industry – Trans Tasman	<ul style="list-style-type: none"> Supports ‘probable’ as the minimum standard for scientific substantiation for general level health claims. It is unfortunate that industry doesn’t get another opportunity to review and comment on the substantiation framework. The Substantiation Framework is an area of great impact for industry as it formalises the level of evidence required to support health claims.

13. DIETARY INFORMATION

Submitter	Group	Comments
AB Food and Beverages Australia Pty Ltd	Industry - Australia	<ul style="list-style-type: none"> The current proposal is restrictive for industry. If a product meets the criteria to use claims such as ‘contains antioxidants’ then it should be able to be referred to in associated material (advertising) even if the claim was not used on packaging. The current proposal is ambiguous, especially for websites and other (non-labelling) materials. Dietary information related to general healthy eating and lifestyle has not been addressed. Seeks clarification as to whether company websites would be captured under the Standard 1.2.7.
Cadbury Schweppes Pty Ltd	Industry - Australia	<ul style="list-style-type: none"> Further clarity regarding the conditions and what claims are permitted is required. Will this be provided in a User Guide? The dietary information statements in the Report are more generic than the pre-approved nutrient function statements. In what context will the nutrient function statements be permitted?
Kraft Foods Limited	Industry - Australia	<ul style="list-style-type: none"> Rejects the proposed approach, it is inappropriately restrictive. Does not permit general statements such as ‘nutritional guidelines recommend a varied diet’. Suggests the claim should relate to the product and not just the claim. Canned meat can carry a message about vegetables even though they are necessary to round out the meal.
New Zealand Food and Grocery Council (NZFGC) Supported by Unilever Australasia	Industry – New Zealand	<ul style="list-style-type: none"> The definition of dietary information is too narrow as it precludes linking a component in a food to a health effect and this will preclude much dietary information already conveyed.

Submitter	Group	Comments
Coles Supermarkets	Industry – Australia	<ul style="list-style-type: none"> • Strongly supports proposed exemption of dietary information that does not link a brand of food to a health effect, from the Standard. • Notes opportunities for communicating dietary information including in-store signage, checkout e-screens, brochures, catalogue, Coles Meal Idea program, Coles online electronic newsletters, magazine articles and corporate sponsorship. • Supports the revised definition of dietary information. • Recommends the examples of dietary information statements at section 7.1.6.2 are included in the user guide for clarity.
Frucor Beverages Ltd	Industry – Trans Tasman	<ul style="list-style-type: none"> • Agrees with the proposed approach.
<p>General Mills Australia Pty Ltd and General Mills New Zealand Ltd</p> <p>Cereal Partners Worldwide</p> <p>Nestlé</p>	Industry – Trans Tasman	<ul style="list-style-type: none"> • Subclause 9(2) needs to be reworded and the dietary information definition clarified. • The draft Standard is confusing where it states that dietary information cannot exceed the information in the nutrition content claim or health claim. Since dietary information cannot reference a health effect, then mention of a health claim is subclause 9(2) is irrelevant. • Not clear why there is a restriction on talking about health effects as part of dietary information. It is intended that once a health effect is mentioned, the information becomes a health claim and is no longer considered dietary information (on pack or other information provided, e.g. websites, brochures). • Recommends FSANZ clarify with examples, the intent of dietary information definition and what is captured/not captured. • In reference to subclause 9(1) and 9(3)(b), the following issues apply: <ul style="list-style-type: none"> – It is not clear why national dietary guidelines, for example, must be directly related to the associated food. Agree that the dietary information should not be contrary to the type of food that is carrying the information, e.g. a reference to choosing low salt foods should not be on a food that is not low salt. – Some dietary guidelines fit more appropriately on contrary foods, e.g. reduced fat milk not recommended for children under two years could be useful on a low fat milk product. FSANZ must allow manufacturers to appropriately describe the reasons such negative advisory statements are mandatory. – Manufacturers should be permitted to provide guidance to consumers about other dietary guidelines with which the food product is not associated, e.g. <i>‘drink plenty of water’</i> on other foods. – Manufacturers should be able to provide dietary advice about other foods that could be consumed with another product, e.g. a frozen meal should be able to state <i>‘combine with a wholegrain bread roll and cup of salad vegetables to help meet the dietary guideline requirements. These recommend that you eat plenty of vegetables, legumes and fruit and cereals, especially wholegrains. Don’t forget to drink plenty of water.’</i> • Supports the approach that dietary information not involving the direct sale of food to the public is not subject to the specific requirements of the Standard.
Department of Health and Human Services - Tasmania	Government - Australia	<ul style="list-style-type: none"> • Supports option 2 – redefine dietary information and amend the conditions to ensure that companies do not make inappropriate use of dietary information and other not-for-profit providers of nutrition information are not disadvantaged.

Submitter	Group	Comments
New South Wales Food Authority	Government - Australia	<ul style="list-style-type: none"> • Concerned about the potential for dietary information statements to be made on inappropriate foods due to the lack of eligibility criteria. • An example is ‘national nutrition and dietary guidelines recommend we eat at least two servings of milk and milk products a day’. The possibility exists for this statement to be applied to thickened cream products. Consider it to be inappropriate for such products to carry such a statement. • The definition of dietary information refers to ‘general dietary information’ and ‘educational purpose’ without providing boundaries on the coverage of these words. • Suggests that boundaries are provided to assist jurisdiction understand the intent of these words.
Department of Human Services - Victoria	Government - Australia	<ul style="list-style-type: none"> • Supports option 2 – redefine dietary information and amend the conditions as described in the Preliminary Final Assessment Report.
Campbell Arnott’s Asia Pacific	Industry - Australia	<ul style="list-style-type: none"> • Recommends that general dietary information be allowed to be provided on, or in associated with products and/or advertising that is not related to a claim being made on the product but helps to put the product in the context of a healthy lifestyle and diet. • As a reputable producer in the Australian food industry, Campbell Arnott’s has an obligation to educate consumers. It supports the unregulated provision of broadly applicable dietary information as described in the standard via company websites, newsletters, advertising (print, TV, radio) and on-pack communication. • As a communication tool, on-pack communication is arguably the most important form because it interacts with the consumer at the time of purchase, helping them to make relevant decisions. • Although supports the requirement to regulate specific claims, provision of dietary information on-pack not associated with a claim would appear to be overly restrictive and could hamper the opportunity to provide important dietary information to consumers.
Dairy Australia	Industry - Australia	<ul style="list-style-type: none"> • The dietary information on labels and advertising which is proposed to be regulated under the standard includes ‘information from nutrition guidelines’ (p.101, draft Standard 1.2.7 Division 1, Clause 1). While the national nutrition guidelines contain important information, such guides are often quite general in nature and do not reflect the latest and emerging scientific understanding. For example, <ul style="list-style-type: none"> - The 2006 Nutrient Reference Values raised calcium recommendations for most population groups over the age of nine years. This means that the 2003 Australian Dietary Guidelines are out of date with respect to the recommended number of daily servings of dairy foods. - The role that probiotics have on gut intestinal flora and the gastrointestinal environment is of too specific a nature for the Dietary Guidelines. Consumers may request dietary information on topics such as this from companies, e.g. brochures and information sheets. • As noted under comments to ‘Application of the Standard’, Dairy Australia feels that conditions under which companies can provide information is ambiguous. This needs clarification so that companies can continue their role of providing education material in a responsible and credible manner. For example, <ul style="list-style-type: none"> - Can companies’ websites link to professional sites which discuss a health condition? - Can the Dairy Australia site be contained as a link on company websites for generic information about dairy calcium and bone disease and other health conditions?

Submitter	Group	Comments
		<ul style="list-style-type: none"> - Can companies include information about nutrition and health conditions in recipe books, brochures or information sheets which have a company logo attached or specify a specific brand of food? - Can generic information sheets be provided to the public at the same time as other branded food product information sheets? For example, in response to a consumer help line enquiry, is it permissible to provide a general information sheet covering bone health and the importance of three serves of dairy food, together with a separate information sheet about a brand of yoghurt and the nutrition information panel information? • Recommends the source of information for dietary information should be broadened to include recent position papers by credible, independent health organisations and evidence based practice guidelines. For example, information about osteoporosis of a general physiological nature could be referenced to Osteoporosis Australia’s scientific statements and other such position papers. • Recommends that FSANZ provides clear and specific guidelines on the use of dietary information in labelling and in advertising. FSANZ should clarify the circumstances when information is excluded from the provisions of Standard 1.2.7 and when it is not. This clarification could be included in the user guide or preferably clearly stated within the Standard. • Supports the proposal to not regulate dietary information that does not link a specific brand of food to a health effect. However, we have some concerns about different mediums of dietary information that have an associated brand.
Dairy Farmers	Industry - Australia	<ul style="list-style-type: none"> • Supports option 2 provided sufficient user guidance is provided. • The working of subparagraph 9 (3) (a) is problematic given that there is no definition of a whole food. • Pleased that FSANZ acknowledges the role of non-government agencies and food companies in educating the public in healthy eating habits. • However, seeks clarification as to whether option 2 and the application of the standard will allow company websites to provide links to health related websites e.g. Dairy Farmers providing a link to Osteoporosis Australia. • Supports the proposal that dietary information not linked to a specific brand is in general not regulated by this standard. This allows organisations such as Dairy Australia to continue their excellent work in nutrition education.
Sanitarium Australia/New Zealand	Industry – Australia/New Zealand	<ul style="list-style-type: none"> • Concerned that proposal in PFAR raises new issues and seeks clarification that educational material about general foods and their associated health effects will not be captured by the new standard • Notes that: <ul style="list-style-type: none"> - Std 1.1.1 states that the requirements and restrictions in Code Pt 1.2 apply only to labels or on advertising for food (food for retail sale) - definition of advertisement in Model Food Act and NZ Food Act 1981 is extremely wide - Std 1.2.7 would seek to accommodate Sanitarium Nutrition Service (SNS) type information under ‘dietary information provisions - Std 1.2.7 now states that dietary information is regulated when it is provided on labels or in advertisements for food - regulation of dietary information is by way of the definition • Agrees with the first part of the definition <i>dietary information means general dietary information provided for educational purposes</i>

Submitter	Group	Comments
		<ul style="list-style-type: none"> • Also agrees with <i>including information from national nutrition guidelines relating to food or properties of food</i>, however, concerned with example pg 106 PFAR which states that the information <i>....must be presented in the context of Australia's or New Zealand's Dietary Guidelines</i>. If this means that 'dietary information' can only be extracted from national dietary guidelines, it appears to conflict with the definition itself which says 'includes'. • Concerned with <i>....but not including associated health effects</i>. Sanitarium frequently discusses health effects associated with eating general types of foods e.g. wholegrains, fruits, vegetables, legumes, nuts with reduced risk of diabetes, heart disease, cancers etc. • Agrees with clause 3(1) which states dietary information 'must not be made on a labels or in an advertisement for food' except for the very wide definition of advertisement as noted above. • Suggests definition needs to be narrowed by saying that dietary information is not considered to be an advertisement solely because it carries a food supplier's corporate branding. • Clause 9 (1/2) is intended to allow certain types of information. However given that any educational dietary information could be included in the wide definition of 'advertisement' means that SNS would be required to ensure its branded info 'related to' [clause 9(1)] and 'did not exceed' [clause 9(2)] the 'associated nutritional content claim or health claim'. This would be a crippling restriction for SNS and would also be a curious one given that in much of the information from SNS, there would be no 'associated' content or health claim. • Drafting appears to assume that the label or advertisement will always 'associate' the dietary information with a particular food – which is the case on label an in true advertisement when food is referred to. However many SNS articles give information not associated with a particular food or branded product. Problem is the wide definition of advertisement. • If clause 9(1/2) related only to 'real' advertisements for specific products it would work well • Does not understand clause 9(3). 'Otherwise' appears to mean 'otherwise than on a label or in an advertisement'. However our understanding is that if it is not on a label or in an advertisement for food it is outside the restrictions under Pt 1.2 Std 1.1.1. If it were intended to apply to the label/advertisement situation, 3(b) would appear to place a crippling restriction on SNS – the information would have to relate to the 'associated' food when there may be no 'associated' food. What does 'associated food' mean when we are not in the label/advertisement situation? • Suggests the drafting is out of line with PFAR • Suggests if dietary information is to be regulated within Std 1.2.7, what is needed is for the correct line to be drawn between what is/not an 'advertisement'. 'Advertisements' should mean advertisements for branded products • Recommends that dietary information is not to be considered as in an advertisement solely because it carries corporate branding and to define dietary information as 'Dietary information provided for educational purposes [including information from national nutrition guidelines relating to food or properties of food]'.

Submitter	Group	Comments
New Zealand Ministry of Health (Cynthia Maling)	Government – New Zealand	<ul style="list-style-type: none"> • Agrees that general dietary information is valuable, but only if messages are consistent and truthful. • Supports the intent for dietary information to be ‘provided for educational purposes’, however its use in advertising needs to be more clearly defined. • Recommends criteria be developed for its use (i.e., foods must meet eligibility criteria). • Prefers wording to be pre-approved and prescriptive, rather than based on guiding principles and examples to avoid misleading consumers.
Private (Jack Ward)	Consumer - Australia	<ul style="list-style-type: none"> • Supports Option 2 as recommended by FSANZ
The New Zealand Food Safety Authority (Carole Inkster)	Government - New Zealand	<ul style="list-style-type: none"> • Of the options presented, Option 2 is closest to the view of NZFSA. • Believes FSANZ has clearly differentiated between what would be considered dietary information and what would be considered a health claim. • Believes another important distinction needs to be drawn, that between dietary information and advertising. Consider the example of dietary information given on page 106 of the PFAR to be advertising. • Considers that when used in association with a particular brand of food, as in the example given, this would be for advertising purposes rather than solely for educational purposes. • Believes advertising should be explicitly excluded from the definition of dietary information. • Welcomes detailed examples of what is and what is not considered dietary information in both the user guide for industry and the user guide for enforcement agencies.
Dietitians Association of Australia (Ms Kate Poyner)	Public Health - Australia	<ul style="list-style-type: none"> • Supports Option 2 as recommended by FSANZ
The National Heart Foundation of Australia (Anne-Marie Mackintosh) Supported by The National Heart Foundation of New Zealand (Anna Malan)	Public Health - Australia	<ul style="list-style-type: none"> • Supports Option 2. • Seeks clarification, perhaps in the User Guide, with regards to dietary information relating to kilojoule intake and weight, and what nutrition content claim would be required to be met by the product. For example; <ul style="list-style-type: none"> – ‘eating kilojoules in excess of your needs can lead to overweight’ – ‘balancing kilojoule intake with kilojoule expenditure can help prevent weight gain’ • Believes that under the current drafting it is not clear if this needs to be a ‘low joule’ claim and if so, it does not seem appropriate that these types of statements would only appear on low joule foods as there would be nutrition education advantages if a range of food were able to make these types of statement on pack.
New Zealand Dietetic Association (Jan Milne)	Public Health – New Zealand	<ul style="list-style-type: none"> • Supports Option 2 as recommended by FSANZ. • Believes FSANZ has clearly defined dietary information

Submitter	Group	Comments
George Weston Foods Limited	Industry - Australia	<p>Has several concerns with the current proposal related to dietary information:</p> <p>Restrictive for industry:</p> <ul style="list-style-type: none"> • Limits industry’s role in educating consumers on a health and nutrition platform. For example, the proposal that if dietary information is provided in relation to a certain product’s nutrient profile e.g. bread’s fibre content, then the product would need to carry a claim associated with fibre. • George Weston acknowledge the need for the product to comply with the legislated criteria for a fibre claim (and hold substantiation), but it is not always realistic to have the claim related to the dietary information on pack (for example, pack space is often limited). • Believes that if a product was ‘high in fibre’ and met the requirements for this claim, then it should be able to be referred to in associated material even if the claim was not on the packaging. • Questions the restrictive nature of the current proposal especially in light of recent consultation with FSANZ on P295 – Mandatory Fortification with Folic Acid and P230 – Mandatory Fortification with Iodine. Within both proposals, industry is expected to play an important role in educating consumers in relation to these nutrients and their health effects. • FSANZ needs to ensure consistency and make it clear to industry of the role it has in educating consumers.
George Weston Foods Limited	Industry - Australia	<p>Current proposal is ambiguous</p> <ul style="list-style-type: none"> • Difficult to determine what industry can and cannot say, especially on websites and in other materials i.e. not on product packaging. Industry provision of dietary information related to general healthy eating and lifestyle i.e. that is not linked to one particular food or property of food has not been addressed by FSANZ. • FSANZ needs to confirm our understanding that company websites will not be captured under Standard 1.2.7 if the material contained is not direct sale material.
Parmalat	Industry – Australia	<ul style="list-style-type: none"> • Supports Option 2 that dietary information be redefined with conditions as listed in the Preliminary Final Assessment Report. • Also recommends that FSANZ provide adequate guidelines (possibly in User Guides) on the use of dietary information in labelling and advertising that clarifies when this information is excluded from the provisions of Standard 1.2.7, and where it is not. Guidelines should be supported through examples, particularly in relation to various scenarios that could be interpreted as product advertising. <p>Context to recommendations</p> <ul style="list-style-type: none"> • For industry there is still some ambiguity as to how dietary information can be used in conjunction with product information either via labelling or in advertising. This particularly relates to provision of printed material (brochures) from independent professional institutions or electronic links to the web site of such institutions. A link to a web site of an independent health organisation such as Osteoporosis Australia would naturally contain information relating to osteoporosis with such information being excluded from the definition of ‘dietary information’. • There is also ambiguity in relation to dissemination of dietary information (as hard copy or via electronic media) developed to educate consumers on the health benefits of nutrients and bioactives e.g. probiotics. Such information may not be provided in conjunction with an advertisement for a branded products, however may have indirect links to products via a company name or brand via the Web.

Submitter	Group	Comments
		<ul style="list-style-type: none"> FSANZ states the following in relation to application of dietary information – <i>It was the intention that dietary information provided in situations other than food labels or advertising which was not promoting the food for retail sale to the public would not be captured under the application clause of draft standard 1.2.7.</i> FSANZ has not taken into account the various interpretations that may apply to ‘advertising’ and in fact examples provided under subsection 7.1.6.2 refer only to issues related to labelling and not to advertising
Fonterra Co-Operative Group Limited	Industry – Australia & New Zealand	<ul style="list-style-type: none"> Supports in-principle FSANZ’s proposed approach and will continue to work in partnership with public health professionals in promoting appropriate dietary information messages to the public for education purposes. Believes it is important to continue to provide consumers with dietary education in line with the Australian/New Zealand Dietary Guidelines in a manner not related to specific brands/products but as a partner to the government, community and public health education program.
Nu-Mega Ingredients Pty Ltd	Industry - Australia	<ul style="list-style-type: none"> Supports permission to provide dietary information.
Unilever Australasia	Industry – Trans Tasman	<ul style="list-style-type: none"> Supports the AFGC submission. The all-encompassing scope of the draft Standard and complexity of inter-related definitions mean that true statements cannot be made about the nutrition contribution of a food without being specifically permitted. Prohibition of provision of nutrition and dietary information to consumers to facilitate choosing products to make up a healthy diet appears a step backwards when we are all aware of the conflicting information and difficulties encountered in making these choices.
Cadbury Schweppes Pty Ltd	Industry - Australia	<ul style="list-style-type: none"> The dietary information statements in the Report are more generic than the pre-approved nutrient function statements. Will these nutrient function statements be permitted and in what context?
Dairy Australia	Industry - Australia	<ul style="list-style-type: none"> Pleased to see that FSANZ acknowledges that non-government agencies and food companies undertake valuable activities aimed at educating the public on nutrition and health-related (p.104). It is important that Dairy Australia is able to continue its role in educating health professionals and consumers about the nutritional benefits of milk, cheese and yoghurt. Dairy Australia agrees that ‘general dietary information not involving the direct sale of food to the public’ should not be captured by the standard (p.106). Dairy Australia supports Option 2, but calls for clarification on behalf of the dairy companies.

14. ENDORSEMENTS

Submitter	Group	Comments
Australian Food and Grocery Council (AFGC) Supported by Simplot	Industry - Australia	<ul style="list-style-type: none"> Agrees in-principle to exclude all endorsements from the Standard. The proposed definition of an endorsing organisation may not include organisations such as The Omega-3 Centre, GoGrains and Dairy Australia – all of which promote healthy eating, good nutrition, etc, and may wish to help highlight generic commodities with specific healthy attributes in the future.
Cadbury Schweppes Pty Ltd	Industry - Australia	<ul style="list-style-type: none"> Supports the recommendation that all endorsements made by endorsing organisations are excluded from the regulation of the Standard.

Submitter	Group	Comments
Horticulture Australia Limited (HAL)	Industry - Australia	<ul style="list-style-type: none"> The Go for 2&5 campaign receives government funding and can be classified as a government health promotion campaign and therefore they interpret that the campaign and licensed users would be exempt from the Standard.
Kraft Foods Limited	Industry - Australia	<ul style="list-style-type: none"> Supports the proposed approach. Endorsements will be excluded from regulation. They will be required to comply with normal claim requirements. This is supported as it reduces the chance of mixed messages.
New Zealand Food and Grocery Council (NZFGC) Supported by Unilever Australasia	Industry – New Zealand	<ul style="list-style-type: none"> Supports exemptions of endorsements from the Standard. It is a fair approach as endorsements implemented after the enactment of the Standard should be treated in the same way as endorsements currently in existence.
SA Department of Health	Government - Australia	<ul style="list-style-type: none"> Has concerns about the enforceability of the Code in this regard. Until the definitions are tested, it is hard to say whether they are robust enough to control an influx of ‘independent endorsing organisations’ with indirect industry linkages.
ADECRON Food Tech Consulting	Industry – New Zealand	<ul style="list-style-type: none"> Disagrees with endorsements being exempt from compliance with Standard 1.2.7. Potential to confuse/mislead consumers and be unfair to those companies not willing/able to pay the license fees.
Coles Supermarkets	Industry – Australia	<ul style="list-style-type: none"> Strongly supports exclusion of endorsements from the Standard. This is minimal effective regulation and eliminates the need for listing specific endorsements and on-going review for currency, without limited consumer choice.
General Mills Australia Pty Ltd and General Mills New Zealand Ltd Cereal Partners Worldwide Nestlé	Industry – Trans Tasman	<ul style="list-style-type: none"> Supports the exemption of endorsements as proposed. Supports the modified definition of an endorsing organisation. This will ensure the legitimacy of endorsements used on food labels.
Department of Health and Human Services - Tasmania	Government - Australia	<ul style="list-style-type: none"> Supports option 2 – to exclude defined endorsements from regulation under the Standard. However, is concerned about the definition of endorsing agency and believes that there is potential for inconsistent messages between endorsements and public health messages. Endorsing agency messages should be consistent with Australian and New Zealand nutrition guidelines.

Submitter	Group	Comments
New South Wales Food Authority	Government - Australia	<ul style="list-style-type: none"> • Opposed to the blanket exemptions proposed for endorsement organisations from Standard 1.2.7. Considers the introduction of a broad exemption to be contrary to the intent of Standard 1.2.7 and suggests that an exclusive list of endorsement organisations be created as an alternative. • Under such an arrangement, organisations seeking an exemption would apply to FSANZ on a case-by-case basis and be approved for exemption following assessment by an expert scientific committee. It is imperative that ‘loopholes’ to the rigid framework established by Standard 1.2.7 are not created, however it is equally important that a mechanism for granting exemptions from Standard 1.2.7 exists on a needs to basis. • Offered following hypothetical scenario: <ul style="list-style-type: none"> - The Natural Health Foundation (NHF) is established by the Naturopath Association of Australia as an endorsing organisation. The NHF is a non-profit organisation, whose charter is to promote health and nutrition through the consumption of a diet rich in anti-inflammatory components in ‘natural’ foods. - The NHF chooses to use the ‘inflammation fighter star’ as an endorsement on food packages to indicate foods containing anti-inflammatory components. The NHF, according to its own scientific assessment, has developed minimum criteria of what a food must contain in order to qualify for the ‘inflammation fighter star’. In this instance, the assessment protocol used by the NHF to arrive at its conclusion does not match the protocol used by FSANZ to regulate claims under standard 1.2.7. Similar to other endorsing organisations, the use of the ‘inflammation fighter star’ is available to all sectors of the food industry upon payment of a license fee to the NHF. - The ‘inflammation fighter star’ is readily purchased by marketers of ‘Goji berry juice’ and other ‘wonder foods’ – on the basis they contain significant quantities of anti-inflammatory components. The ‘inflammation fighter star’ then becomes a common feature on food packages, with associated effect on consumer purchase behaviour. - The task of determining the legitimacy of the ‘inflammation fighter star’ and the legitimacy of the NHF as an endorsing organisation then becomes the task of jurisdictions, due to the lack of pre-market approval processes. Furthermore, the removal of product from the marketplace labelled with the ‘inflammation fighter star’, should it be proven to be misleading or over-represented also becomes the task of jurisdictions. NSW does not consider this to be an inappropriate use of limited state Proposal 293 – NSW submission to Preliminary Final Assessment Report for Nutrition, Health and Related Claims Standard. Page 4 of 10 resources, and urges FSANZ to introduce a pre-market approval process to prevent this scenario becoming reality.
New South Wales Food Authority	Government - Australia	<ul style="list-style-type: none"> • The definition of ‘endorsement’ refers to a ‘reference’ to a serious disease, without providing boundaries of the coverage of ‘reference’ in the definition. Notes that interpretation of the definition will be problematic without these boundaries. • The definition of ‘endorsing organisation’ includes the words ‘independent’ and ‘controlled’ without providing a boundary on the capture of these words. Without such boundaries, it will be difficult to determine what qualifies as ‘independent’ for the purposes of an ‘endorsing organisation’ and what does not. A similar case applied to ‘controlled’.
South Australia Department of Health	Government - Australia	<ul style="list-style-type: none"> • Has concerns about the enforceability of the Code in this regard. Until the definitions are tested, it is hard to say whether they are robust enough to control an influx of ‘independent endorsing organisations’ with indirect industry linkages.

Submitter	Group	Comments
Department of Agriculture, Fisheries and Forestry (DAFF)	Government - Australia	<ul style="list-style-type: none"> Supports FSANZ proposals to exclude all endorsements, both existing and future, from having to meet the requirements of the standard, thereby promoting self-regulation of claims by the endorsing organisation.
Department of Human Services - Victoria	Government - Australia	<ul style="list-style-type: none"> Concerned that endorsing organisations (for example, the National Heart Foundation) may be liable for misleading conduct. As per the Submitter Responses to issues at Draft Assessment (on page 13 of the online FSANZ paper ‘Issues relating to related claims’), Victoria understands that the ACCC considers that endorsement programs must comply with the new standard. They advise that if existing programs endorse food that would not qualify for nutrition/health claims, that this could be potentially misleading to consumers. Victoria supports the principle of industry self-regulation and recognises the important contribution these programs play in dietary choices; therefore FSANZ must resolve this issue with the ACCC. The uncertainty for endorsing organisations that they may be found in breach of trade practices legislation for misleading conduct is untenable. This quandary will serve to prevent the use of endorsements, which is not an outcome we find acceptable. Since we understand that the Food Acts (and consequently the Code) are subject to the Trade Practices Act, a special understanding about endorsements is needed between the ACCC and FSANZ prior to finalisation of the new standard. Understands that some food industry players believe that where a ‘serious disease’ is part of the endorsing organisation’s name, endorsement should constitute a high-level health claim under the new standard because of the implications that the endorsement makes. Further consideration of this matter is warranted too, in light of the FSANZ preferred option.
Queensland Health	Government - Australia	<ul style="list-style-type: none"> Has serious concerns with the application of the proposed standard in relation to registered trade marks and endorsements made by endorsing organisations. The exemption of registered trademarks from the proposed standard presents a significant compliance loop-hole given regulatory agencies have no legislative control over the assessment and approval of trademark applications. The current definition of ‘endorsing organisation’ also presents significant regulatory challenges. Additional guidance and assessment criteria must be established to ensure consistent interpretation of this definition is applied across all jurisdictions.
Campbell Arnott’s Asia Pacific	Industry - Australia	<ul style="list-style-type: none"> Supports the removal of endorsements from the Standard.
Dairy Australia	Industry - Australia	<ul style="list-style-type: none"> Supports Option 2 to exempt endorsement programs from the Standard, but recommends that the definition of an endorsing organisation be amended. It appears that the proposed definition of an endorsing organisation may not include organisations, such as Dairy Australia. Dairy Australia has specific expertise in dairy nutrition. We could potentially contribute positive messages and help highlight dairy foods with healthy attributes in the future. Recommend that agricultural industry bodies representing the main food groups (such as ‘Dairy Australia’, ‘Nuts for Life’, ‘Go Grains’ and ‘Meat & Livestock Australia’) be permitted to highlight healthy foods, within their food group, that meet the criteria for making health claims with some type of endorsement logo.
Dairy Farmers	Industry - Australia	<ul style="list-style-type: none"> Supports option 2 to exclude from regulation all endorsements made by endorsing organisations as defined.

Submitter	Group	Comments
Choice – Australia	Consumer - Australia	<ul style="list-style-type: none"> • Appreciates the difficulty of incorporating existing endorsements into current framework • Believes all products with endorsements should comply with health claims standard (be eligible via the nutrient profiling criteria) except for those endorsements relating to food allergies/intolerances. • FSANZ research found that participants believed products with endorsements offered more of a health benefit than other types of claims. Therefore it is potentially misleading if products that are ineligible to carry health claims are endorsed by another organization.
Sanitarium Australia/New Zealand	Industry – Australia/New Zealand	<ul style="list-style-type: none"> • Understands that endorsement programmes have or will undergo rigorous assessment by organizations such as ACCC. However the proposed system allows manufacturers that pay endorsement fees to have their products linked to health benefits regardless of the health claims eligibility criteria • Consumers may mistakenly believe that endorsed products are more nutritious than the same product that is not endorsed • Removal of the eligibility criteria for general level health claims from the standard would solve the issue of having endorsement criteria that are looser than the generic nutrient profiling criteria
Consumers’ Institute of New Zealand Incorporated (Belinda Allan)	Consumers – New Zealand	<ul style="list-style-type: none"> • Concerned that existing endorsement programmes may not have to comply with the health claims standard. • Comments that FSANZ consumer research concluded that participants believed a product carrying an endorsement claim offered more of a health benefit than other types of claims. States that if endorsements are perceived by consumers to offer the greatest health benefit then it is potentially misleading if products ineligible to carry health claims because they do not meet the nutrient profiling criteria, are endorsed by another organisation. • Believes if a product is ineligible to carry a health claim using the nutrient profiling model it should not be permitted to carry an endorsement.
New Zealand Ministry of Health (Cynthia Maling)	Government – New Zealand	<ul style="list-style-type: none"> • Disagrees that all endorsements be excluded from Standard 1.2.7, except endorsements such as organic. • States that to avoid misleading consumers, foods carrying endorsements based on nutrient content should be required to meet nutrition profiling criteria equivalent to other similar claims (e.g., low or reduced for energy, and nutrient profiling criteria for heart related claims). • Instead of endorsements, support the concept of signposting (front of pack labelling) as a tool for communicating complex nutritional information to consumers. • Recommends more emphasis and effort on developing a universal signposting/labelling scheme for all products. States that this work should involve consumer research to determine the most appropriate and useful signposting method for New Zealand and Australia.
Private (Jack Ward)	Consumer - Australia	<ul style="list-style-type: none"> • Supports Option 2 as recommended by FSANZ

Submitter	Group	Comments
The Cancer Council Australia (Kathy Chapman, Sarah Mackay, Terry Slevin) Supported by the Cancer Council Western Australia	Public Health - Australia	<ul style="list-style-type: none"> • Acknowledges that FSANZ has tried to address the issue of endorsements in the Preliminary Final Assessment Report. • Agrees with FSANZ's approach that an endorsing organisation, who is excluded from the regulation of the standard, should 'be independent, formed for nutritional or health purposes, and structured in a way that guarantees that suppliers of foods carrying the endorsement cannot influence the criteria used by the endorsement program'. • Suggests that FSANZ add to the definition of an endorsement program that the process and criteria for endorsement programs are transparent and made readily available to consumers. • Comments that the issue of how any potential breaches to the definition would be dealt with should be included in the report.
The New Zealand Food Safety Authority (Carole Inkster)	Government - New Zealand	<ul style="list-style-type: none"> • Supports Option 2 as recommended by FSANZ
Dietitians Association of Australia (Ms Kate Poyner)	Public Health - Australia	<ul style="list-style-type: none"> • Supports this option but seeks clarification as to who decides if the endorsement program complies with these principles and the requirements of the relevant category of claim. • Believes these details need to be provided in the user's guide. State that added detail on which principles will be used will assist interpretation of endorsements. • Comments that the principles need to be consistent with national and trans-Tasman policies for healthy eating.
Glycemic Index Symbol Program (Alan Barclay)	Public Health - Australia	<ul style="list-style-type: none"> • Believes that Option 2 provides a more equitable system for regulating endorsements than that provided at draft assessment. • However, comments that extra consumer protection would be afforded if only Certified Trademarks were allowed to be used for the purposes of endorsement.
The Coeliac Society of Australia Inc (Graham Price)	Public Health - Australia	<ul style="list-style-type: none"> • Agrees with the draft Standard.
The National Heart Foundation of Australia (Anne-Marie Mackintosh)	Public Health - Australia	<ul style="list-style-type: none"> • Supports Option 2 • Pleased with the proposed wording of endorsement and endorsing organisation. • Acknowledges there are 'endorsements' and 'logos' currently in the marketplace which are not underpinned by a reputable health organization and consequently have the potential to mislead consumers, firmly supports the need to regulate these endorsements and 'logos'. • Believes that consumers would consider an 'endorsement' to come from an appropriate and reputable third party, or at least be based on an appropriate or reputable third party's recommendations. • Pleased that the tick Program can continue to be used as an endorsement and that this endorsement is not subject to the qualifying and nutrient profiling criteria that apply to health claims. • Proposes that with respect to the application of standard 1.2.7 clause 2 (2, 3) only endorsements permitted under the new regulations should be endorsement programs that are represented by Certification trademarks, which are governed by the Certification rules of the CTM. Comments that this allows for any endorsement to be initially reviewed by the appropriate authorities against consumer protection laws.

Submitter	Group	Comments
		<ul style="list-style-type: none"> • Proposes that the certifying organization should control the substantiation and certification requirements for use of the Certification trademarks. • Believes that evidence that food products meet the criteria of the endorsement program should be based on laboratory analyses. Notes that there may be some contractual or confidentiality issues regarding releasing this information to enforcement agencies. • Seeks clarification of the definition of ‘endorsement’ with reference to ‘designs’ and how FSANZ proposes to manage these. For example, symbols of hearts as part of a trademark may infer a heart benefit on a food that may be considered unhealthy. Will matters of this type be managed by FSANZ or by the Trade Practices Act which covers false or misleading representations about products?
The National Heart Foundation of New Zealand (Anna Malan)	Public Health – New Zealand	<ul style="list-style-type: none"> • Pleased with the proposed wording of endorsement and endorsing organisation. • Pleased that the tick Program can continue to be used as an endorsement and that this endorsement is not subject to the qualifying and nutrient profiling criteria that apply to health claims. • Proposes that with respect to the application of standard 1.2.7 clause 2 (2, 3) only endorsements permitted under the new regulations should be endorsement programs that are represented by Certification trade marks (CTMs), which are governed by the Certification rules of the CTM. Comments that this allows for any endorsement to be initially reviewed by the appropriate authorities against consumer protection laws. • Seeks clarification of the definition of ‘endorsement’ with reference to ‘designs’ and how FSANZ proposes to manage these. For example, symbols of hearts as part of a trademark may infer a heart benefit on a food that may be considered unhealthy. Will matters of this type be managed by FSANZ or by the Trade Practices Act which covers false or misleading representations about products?
New Zealand Dietetic Association (Jan Milne)	Public Health – New Zealand	<ul style="list-style-type: none"> • Believes that FSANZ preferred option (option 2), clearly outlines the key benefits. • Has concerns around the practicalities of how the endorsing organisation will be investigated.
The Omega-3 Centre (Wendy Morgan)	Public Health – Australia and New Zealand	<ul style="list-style-type: none"> • Recommends greater clarification around the definitions of ‘endorsement’ and ‘endorsing organisation’ and the application of registered trademarks in association with foods. • Comments that it is not clear how a registered trademark is affected by the proposed standard relating to ‘endorsing organisation’ if the ‘endorsing organisation’ uses a registered trademark as the mark of its endorsement. • Comments: ‘The Omega-3 Centre believes it meets the definition of an endorsing organisation because it is an independent organisation, formed for nutrition and health purposes, funded by membership fees including funds from government, its communications are based on sound science and are checked by scientific experts and because it is an incorporated association with rules governing its modus operandi. The Omega-3 Centre does not currently endorse food products but it may consider this in the future’.

Submitter	Group	Comments
The Public Health Association of Australia (Kemmett)	Public Health - Australia	<ul style="list-style-type: none"> • Agrees with FSANZ's approach that an endorsing organisation, who is excluded from the regulation of the standard, should 'be independent, formed for nutritional or health purposes, and structured in a way that guarantees that suppliers of foods carrying the endorsement cannot influence the criteria used by the endorsement program'. • Concerned that certain food manufacturers may exploit loopholes in the standard that will enable them to establish 'mock' endorsing organisations that give the appearance of independence, but in reality are established to serve to legitimise specific food marketing claims. • Suggests that FSANZ add to the definition of an endorsement program that the process and criteria for endorsement programs are transparent and made readily available to consumers.
George Weston Foods Limited	Industry - Australia	<ul style="list-style-type: none"> • Supports in-principle the proposal to exclude endorsements from the draft Standard. • Support the Omega-3 Centre and Go Grains seeking clarification of their status as endorsing organisations and support their work in educating consumers with respect to their areas of expertise.
Murray Goulburn Co-operative	Industry – Australia	<ul style="list-style-type: none"> • Challenges the proposed definition of 'endorsing organisations'. • This definition does not meet the need to ensure reputable organisations are free to communicate through partnerships with food industry. Also, this definition does not prevent interest groups which do not base their communications on sound science from communicating through partnerships with the food industry. • Recommends that FSANZ takes responsibility for ensuring that 'endorsing organisations' have appropriate scientific advice and safeguards to ensure accurate and helpful information is communicated to consumers.
Parmalat	Industry – Australia	<ul style="list-style-type: none"> • Supports option 2 that all endorsements made by endorsing organisations as defined in the Standard are excluded from the Standard. • Notes there is still some ambiguity as to what constitutes an endorsing organisation for the purpose of the Standard. • Industry bodies such as Dairy Australia appear to be excluded from the definition on the basis they are not solely formed for nutrition and health purposes, yet provide an important role in promoting the health benefits of dairy to the general public. • Recommends that the definition of 'endorsing organisation' be broadened to permit endorsements by any independent body with a charter for contributing to nutrition and health of the general population, and as such would include industry bodies representing various food sectors.
Fonterra Co-Operative Group Limited	Industry – Australia & New Zealand	<ul style="list-style-type: none"> • Endorses FSANZ's proposed approach, however suggest that the definition of endorsing organisation be reviewed to ensure peak industry bodies such as Meat and Livestock Australia, Dairy Australia and Horticulture Australia be allowed to add a food group specific endorsement to foods within their group/category. Note that though these bodies are linked through funding and reporting requirements to Governments they also have a level of independence and are subject to Government policies and protocols that endure a level of separation from the industry they represent.
Goodman Fielder Limited	Industry – Australia & New Zealand	<ul style="list-style-type: none"> • Supports the proposed definition of endorsements, but consider the definition of 'endorsing organisation' is too restrictive in excluding processors/suppliers. • Requires clarification as to whether including an industry website or other industry contact point on pack is seen to be an implied claim or endorsement.

Submitter	Group	Comments
Go Grains Health and Nutrition Limited	Industry - Australia	<ul style="list-style-type: none"> Proposes that industry-based organisations such as Go Grains be eligible to be classified as ‘endorsing’ organisations where criteria used by the endorsement program are consistent with dietary guidelines and objectively applied to suppliers of foods carrying the endorsement. Supports the more liberal proposed approach to endorsements.
Nu-Mega Ingredients Pty Ltd	Industry - Australia	<ul style="list-style-type: none"> Recommends that organisations such as Go Grains and The Omega-3 Centre meet the definition of ‘endorsing organisations’. The aims and objectives of ‘endorsing organisations’ as well as the manner in which they operate are important factors in determining their appropriateness to operate outside the proposed new Standard 1.2.7. Goals and objectives targeting the health of the community and a sound scientific basis through appropriate expertise are key attributes. A set of rules to ensure the manner of operation is guided by evidence-based principles will ensure an ‘endorsing organisation’ will contribute to improved foods in the marketplace and/or sound and relevant communications to the public. It would be a disservice to the public not to allow such organisations to make appropriate endorsements.

15. SMALL PACKAGES

Submitter	Group	Comments
Australian Food and Grocery Council (AFGC) Supported by Simplot	Industry - Australia	<ul style="list-style-type: none"> Supports the proposed approach.
Cadbury Schweppes Pty Ltd	Industry - Australia	<ul style="list-style-type: none"> Supports the proposed approach.
Community and Public Health, Canterbury District Health Board	Public Health – New Zealand	<ul style="list-style-type: none"> Does not support exemptions from labelling requirements for small packages. If room is found for the claim, then other existing statutory requirements should be given preference. Is incorrect and misleading to exclude the dietary context/exercise statement and there would be no validity to the claim, e.g. overall diet and exercise assists with weight management, not one food. Recommends dietary context and exercise statements are included on small packages.

Submitter	Group	Comments
<p>Confectionery Manufacturers of Australasia (CMA) Limited</p> <p>Supported by CMA New South Wales, CMA Victorian Branch, CMA Queensland Branch, CMA NZ Branch and CMA South Australian Branch, International Confectionery Association</p>	Industry – Trans Tasman	<ul style="list-style-type: none"> • Supports the provisions for modified statements and exemptions.
Kraft Foods Limited	Industry - Australia	<ul style="list-style-type: none"> • Supports the proposed approach.
<p>New Zealand Food and Grocery Council (NZFGC)</p> <p>Supported by Unilever Australasia</p>	Industry – New Zealand	<ul style="list-style-type: none"> • Supports the proposed approach.
Coles Supermarkets	Industry – Australia	<ul style="list-style-type: none"> • Supports the proposed approach.
Nestlé	Industry – Trans Tasman	<ul style="list-style-type: none"> • Supports the exemptions proposed for small packages. • There is a need to review the definition of small package. • Food labels require more information than previously required in the past and that this has an impact on the legibility of the labelling if there is not a change to the maximum small package surface area. • Acknowledges that although nutrition content claims and health claims are voluntary, these become important tools in providing consumers with a point of differentiation when choosing foods for a healthy overall diet. Manufacturers also market the same product in varying pack sizes and usually include the same types of claims on all pack sizes for a consistent approach.
Department of Health and Human Services - Tasmania	Government - Australia	<ul style="list-style-type: none"> • Supports option 2 and the requirement for manufacturers of food with small labels to disclose information pertinent for public health.
Department of Human Services - Victoria	Government - Australia	<ul style="list-style-type: none"> • Supports option 2 and the requirement for manufacturers of food with small labels to disclose information pertinent for public health.

Submitter	Group	Comments
Choice – Australia	Consumer - Australia	<ul style="list-style-type: none"> Does not support the splitting of nutrient or health claims under any circumstance when made on small packages since splitting of claims will likely result in short punchy marketing claims on front of package with asterisk indicating where to look for full claim. Suggest minimum font size for health claims to ensure entire claim is legible. Also should apply to TV advertisements.
The New Zealand Food Safety Authority (Carole Inkster)	Government - New Zealand	<ul style="list-style-type: none"> Supports Option 2 as recommended by FSANZ
New Zealand Ministry of Health (Cynthia Maling)	Government – New Zealand	<ul style="list-style-type: none"> Does not agree that small packages should be exempt from including a full NIP or statements/disclaimers associated with nutrition and health claims. Comments that if room is available for nutrition and health claims, then it should be available for statutory labelling purposes. Believes that if this information cannot be fitted onto the package, it could be included in a pull out or folded label, or at the point of sale.
Private (Jack Ward)	Consumer - Australia	<ul style="list-style-type: none"> Supports Option 2 as recommended by FSANZ
The Cancer Council Australia (Kathy Chapman, Sarah Mackay, Terry Slevin) Supported by the Cancer Council Western Australia	Public Health - Australia	<ul style="list-style-type: none"> Agrees with what FSANZ proposes for small packages. Does not think there should be wording exemptions for small packages, as they are able to provide the additional information in the form of a fold out label or shelf information.
Dietitians Association of Australia (Ms Kate Poyner)	Public Health - Australia	<ul style="list-style-type: none"> Supports Option 2 as recommended by FSANZ
The Cancer Council Western Australia (Terry Slevin)	Public Health - Australia	<ul style="list-style-type: none"> States that small packages should not be exempt from wording as they are able to provide the additional information in the form of a fold out label or shelf information.
Fonterra Co-Operative Group Limited	Industry – Australia & New Zealand	<ul style="list-style-type: none"> Endorses FSANZ’s proposed approach.

16. SPLIT CLAIMS

Submitter	Group	Comments
Australian Food and Grocery Council (AFGC) Supported by Simplot	Industry - Australia	<ul style="list-style-type: none"> Supports the proposed approach.
Kraft Foods Limited	Industry - Australia	<ul style="list-style-type: none"> Supports the proposed approach. It provides a balance between marketing claim and the necessary qualifying statements and positioning on a label.
New Zealand Food and Grocery Council (NZFGC) Supported by Unilever Australasia	Industry – New Zealand	<ul style="list-style-type: none"> Supports the proposed approach.
Coles Supermarkets	Industry – Australia	<ul style="list-style-type: none"> Supports the proposed approach.
General Mills Australia Pty Ltd and General Mills New Zealand Ltd Cereal Partners Worldwide Nestlé	Industry – Trans Tasman	<ul style="list-style-type: none"> Including a statement with a split claim referring consumers to the whole claim will take up a significant amount of space on a label and may impact on the legibility. Considers that a statement referring to the full health claim is not needed, in the same way as is proposed for nutrition content claims.
Department of Health and Human Services - Tasmania	Government - Australia	<ul style="list-style-type: none"> Does not support the health claim itself being listed separately to the defining information, without an accompanying statement. Supports content claims being allowed to be listed separately from health claims.
Campbell Arnott's Asia Pacific	Industry - Australia	<ul style="list-style-type: none"> Supports the splitting of claims on packs, subject to their recommendations for dietary information being adopted.
Consumers' Institute of New Zealand Incorporated (Belinda Allan)	Consumers – New Zealand	<ul style="list-style-type: none"> Does not support the splitting of nutrient or health claims. States that if splitting is allowed, this may result in marketing claims on the front of the package with the full qualified claim hiding in the fine print. Believes there should also be a minimum font size for health claims to ensure legibility and that legibility should be a requirement for all advertising, including website promotions.
New Zealand Ministry of Health (Cynthia Maling)	Government – New Zealand	<ul style="list-style-type: none"> Does not support split health claims. Comments that if room is available for health claims then it should be available to present the health claim in its entirety (including associated statements/disclaimers). Believes permitting split claims is misleading to consumers, even if the consumer is directed to the entire claim.

Submitter	Group	Comments
Private (Jack Ward)	Consumer - Australia	<ul style="list-style-type: none"> Supports Option 2 as recommended by FSANZ
The New Zealand Food Safety Authority (Carole Inkster)	Government - New Zealand	<ul style="list-style-type: none"> Supports Option 2 as recommended by FSANZ
Dietitians Association of Australia (Ms Kate Poyner)	Public Health - Australia	<ul style="list-style-type: none"> Supports Option 2 as recommended by FSANZ
Parmalat	Industry – Australia	<ul style="list-style-type: none"> Supports option 2 which eliminates the requirement to have on the label a statement that directs consumers to the health claim in its entirety (considered such a statement to be non-essential text).
Fonterra Co-Operative Group Limited	Industry – Australia & New Zealand	<ul style="list-style-type: none"> Endorses FSANZ’s proposed approach
Choice – Australia	Consumer - Australia	<ul style="list-style-type: none"> Does not support the splitting of nutrient or health claims under any circumstance when made on small packages since splitting of claims will likely result in short punchy marketing claims on front of package with asterisk indicating where to look for full claim. Suggests minimum font size for health claims to ensure entire claim is legible. Also should apply to TV advertisements.

17. TABLE TO SECTION 9

17.1 %RDI

Submitter	Group	Comments
ADECRON Food Tech Consulting	Industry – New Zealand	<ul style="list-style-type: none"> Recommends Standard 1.2.8, subclause 7A(7) is changed to ‘... on the same form and same quantity of the food’. Notes editorial note stating that %RDI is not required for ESADDI nutrients. She understood from the current Code that %ESADDI is not permitted, only amounts can be listed.

17.2 ‘Source of’ and ‘good source’ type claims

Submitter	Group	Comments
General Mills Australia Pty Ltd and General Mills New Zealand Ltd Nestlé Cereal Partners Worldwide	Industry – Trans Tasman	<ul style="list-style-type: none"> The editorial note to clause 5(1)(c) would appear to allow for ‘source of’ or ‘contains’ where there is no descriptor listed in the Table to clause 11. It should be noted that terms such as lean, trim or skim could refer to physical aspects of the food also.

17.3 Calculation of maximum quantity of a vitamin or mineral that may be claimed

Submitter	Group	Comments
General Mills Australia Pty Ltd and General Mills New Zealand Ltd Cereal Partners Worldwide and Nestlé	Industry – Trans Tasman	<ul style="list-style-type: none"> The editorial note in relation to the maximum quantity that can be claimed for a mixed food states ‘approximately’ for the iron content of the meat. As this is an average, ‘approximately’ should be deleted. There may be a calculation error for the amount of iron in 100 g of meat. To obtain 2.06 mg iron per 100 g there would need to be 2.6 mg of iron permitted to be claimed in the final food.

17.4 Definitions

Submitter	Group	Comments
New South Wales Food Authority	Government - Australia	<ul style="list-style-type: none"> Questions the meaning of ‘feature or constituent of the food’ in the ‘property of the food’ definition. Greater clarity is required.
Dairy Australia	Industry - Australia	<ul style="list-style-type: none"> Agrees with the proposed draft changes in Table 3 (p.122).
Parmalat	Industry – Australia	<ul style="list-style-type: none"> Agrees with the changes proposed in Table 3: Changes to Standard 1.1.1.
Fosters Group	Industry – Australia	<ul style="list-style-type: none"> Concerned that the proposed standard may inadvertently prevent producers from including other information to inform consumers as to what is in the product. In particular are concerned about the definition of ‘property of the food’. As the definition of property of the food includes ‘ingredient’ (therefore a simple ingredient claim may be regulated as a nutrition content claim), as well as ‘any other feature’ so descriptors such as ‘soda water’ in a vodka and soda ready to drink (RTD) product may be regulated as a nutrition content claim. It is not clear what the words ‘associated’ and ‘purpose’ mean in the context of the definition of ‘property of the food’. Recommends the definition is redrafted to refer only to energy, nutrient or a biologically active substance. Complications relating to ingredient claims or physical descriptors would not arise. Alternatively, the definition could be amended to link the ‘nutrition or health purpose’ to the claim, not the property (it would read ‘...that is directly linked by the manufacturer to a nutrition or health purpose...’). This would more clearly exclude mere ingredient and physical descriptions from the scope of the definition. Notes similar problems with the definition of ‘biologically active substance’. The problem is that almost every food ingredient or component has had some research undertaken in relation to possible health effects. The definition would therefore make everything from water to an apple a biologically active substance and therefore reference to such things a nutrition content claim. The issue is whether any claim is being made, i.e. a substance for which a health effect is claim. Mere association in the academic literature should not be sufficient to turn an ingredient into a nutrition claim. Foster’s produce many products with more than 1.15% alcohol by volume that list ingredients on the packaging. The cost to them associated with changing labels would be considerable if the above interpretation is applied.

Submitter	Group	Comments
		<ul style="list-style-type: none"> • Recommends that ‘property of the food’ is not defined so broadly as to preclude ingredient content claims on products with more than 1.15% alcohol by volume, or that further guidance is provided to make it clear the issues raised are not an intended outcome of the drafting.

17.5 General level health claim qualifying criteria

Submitter	Group	Comments
General Mills Australia Pty Ltd and General Mills New Zealand Ltd Nestlé Cereal Partners Worldwide	Industry – Trans Tasman	<ul style="list-style-type: none"> • The wording of clause 6(1)(c) is complicated. • It seems to be limiting foods that can make health claims by two sets of criteria, that relating to nutrient profiling and that by which nutrition content claims must comply.

17.6 Calcium, vitamin D and osteoporosis high level health claim

Submitter	Group	Comments
ADECRON Food Tech Consulting	Industry – New Zealand	<ul style="list-style-type: none"> • Agrees with lowering the calcium qualifying criteria.
Murray Goulburn Co-operative	Industry – Australia	<ul style="list-style-type: none"> • Supports the change to calcium requirement for the high level health claim for calcium and osteoporosis.
Dairy Farmers	Industry - Australia	<ul style="list-style-type: none"> • Appreciates the change in criteria for the high level claim for calcium and vitamin D and osteoporosis, which now allows whole milk to carry this claim. • However, notes that the criteria of 290 mg calcium per serving will not allow claims on some small packs e.g. 150 g or 170 g yoghurt when these are in fact a suitable size for the elderly for whom this claim is intended.

17.7 Permission for claims

Submitter	Group	Comments
<p>Confectionery Manufacturers of Australasia (CMA) Limited</p> <p>Supported by CMA New South Wales, CMA Victorian Branch, CMA Queensland Branch, CMA NZ Branch and CMA South Australian Branch, International Confectionery Association</p>	Industry – Trans Tasman	<ul style="list-style-type: none"> Concerned that the prohibitions in Clause 3(1) may prohibit ‘free’ claims unless specifically included in the standard.
The New Zealand Food Safety Authority (Carole Inkster)	Government – New Zealand	<ul style="list-style-type: none"> Supports the intent of the Editorial note added to the Table to clause 11 in Standard 1.2.7. States that the wording proposed has a wider scope than that intended. Adds that under the proposed wording additional descriptors as well as properties would be permitted. NZFSA understands that the Editorial note was added to allow, for example, the property of carbohydrate to be used in nutrition content claims but without having descriptors prescribed. Suggests the text is modified to read ‘<i>The Table to clause 11 provides conditions for specific nutrition content claims that may be made, however, the Table does not provide an exclusive list of properties of food for which nutrition content claims can be made.</i>’

17.8 General level health claim wording conditions

Submitter	Group	Comments
Queensland Health	Government - Australia	<ul style="list-style-type: none"> Reiterates the need to make it clear in the wording of claims that the consumption of the claimed food is in the context of a variety of <u>nutritious</u> foods, not just a variety of foods.

17.9 Definition of 'fruit' and 'vegetable'

Submitter	Group	Comments
Campbell Arnott's Asia Pacific	Industry - Australia	<ul style="list-style-type: none"> Notes that the current drafting does not allow tomato to be considered as a vegetable, whereas the Australian Guide to Healthy Eating includes tomato as a vegetable. Strongly believes that that tomato should be included in the definition of vegetables. To ignore this may exclude claims on foods such as vegetable juices.
Dietitians Association of Australia (Ms Kate Poyner)	Public Health - Australia	<ul style="list-style-type: none"> Recommends that the draft proposed standard clarifies why there is discrepancy with reference to the definitions of fruit and vegetables such that: <ol style="list-style-type: none"> the definition of fruit means the sweet, fleshy edible portion of a plant that arises from the base and flower and surrounds the seed, where the constituents are present in such proportions that represent the typical edible fractions occurring in the whole fruit (with or without peel). the definition of vegetables(s) means all leafy greens, members of the crucifer family, all root including potatoes) and tuber vegetables, edible plant stems, gourd vegetables, allium vegetables, peas, bean and corn, and refers to either the whole edible portion or where the constituents are present in such proportions that represent the typical edible fractions occurring in the whole vegetable (with or without peel). Queries in the instance of berries such as strawberries where the seeds are on the outside of the flesh, could the definition be amended to be 'fleshy edible portion....surrounds the seeds and/or the seeds are on the outside of the fleshy edible portion' or words to that effect. Queries in the instance of legumes and fungi if the proposed definition includes these foods. The Foods Standards Code has a precedent for including these in the definition of fruit and vegetables in clause 1 of Standard 2.3.1. Comments: 'technically peanuts are a legume, and the DAA wishes for clarification is it the intention of FSANZ that peanuts/ nuts are included in the vegetable definition or alternatively should legumes have their own definition. This is particularly important and relevant with use of the high level health claim for fruits and vegetables and heart disease.
Food Technology Association of Victoria Inc (David Gill)	Industry - Australia	<ul style="list-style-type: none"> States that the definitions for fruits and vegetables are presented separately and are not consistent with the definition in Standard 2.3.1. States that 2.3.1 includes nuts, seeds and legumes whereas the Draft Standard includes these within the food group with meat, seafood, eggs. Believes this approach is inconsistent, confusing and needs revision. States that the definition of fruits in the Draft Standard would include tomato, which technically, is correct but the majority of consumers and manufacturers would consider tomato a vegetable and current ingredient labelling would support this contention. Standard 1.4.2 defines tomato as a 'fruiting vegetable other than cucurbits', clarification is sought.
Private (Jack Ward)	Consumer - Australia	<ul style="list-style-type: none"> Supports the definitions but believes these belong in Standard 2.3. Comments that there are inconsistencies between the definitions with respect to nuts etc.

Submitter	Group	Comments
<p>The National Heart Foundation of Australia (Anne-Marie Mackintosh) Supported by The National Heart Foundation of New Zealand (Anna Malan)</p>	<p>Public Health – Australia Public Health – New Zealand</p>	<ul style="list-style-type: none"> • Recommends that the draft proposed standard clarifies why there is discrepancy with reference to the definitions of fruit and vegetables such that: <ul style="list-style-type: none"> – the definition of fruit means the sweet, fleshy edible portion of a plant that arises from the base and flower and surrounds the seed, where the constituents are present in such proportions that represent the typical edible fractions occurring in the whole fruit (with or without peel). • Queries in the instance of berries such as strawberries where the seeds are on the outside of the flesh, could the definition be amended to be ‘fleshy edible portion....surrounds the seeds and/or the seeds are on the outside of the fleshy edible portion’ or words to that effect. <ul style="list-style-type: none"> – the definition of vegetables(s) means all leafy greens, members of the crucifer family, all root including potatoes) and tuber vegetables, edible plant stems, gourd vegetables, allium vegetables, peas, bean and corn, and refers to either the whole edible portion or where the constituents are present in such proportions that represent the typical edible fractions occurring in the whole vegetable (with or without peel). • Queries in the instance of legumes and fungi if the proposed definition includes these foods. The Foods Standards Code has a precedent for including these in the definition of fruit and vegetables in clause 1 of Standard 2.3.1. • Comments: ‘technically peanuts are a legume, and the DAA wishes for clarification is it the intention of FSANZ that peanuts/ nuts are included in the vegetable definition or alternatively should legumes have their own definition. This is particularly important and relevant with use of the high level health claim for fruits and vegetables and heart disease.
<p>Australian Nut Industry Council</p>	<p>Industry - Australia</p>	<ul style="list-style-type: none"> • In the definition of ‘fruit’, reference to ‘surrounds the seed’ should be amended to ‘surrounds the seeds and/or the seeds are on the outside of the fleshy edible portion’, to incorporate berries such as strawberries. • The definition of ‘vegetables’ does not include legumes and fungi, however, the definition of vegetables in Standard 2.3.1 do. Are aware there are different definitions for vegetables in the Code depending on the purpose, however FSANZ should ensure that in each case no one food type is excluded, to avoid confusion.
<p>Heinz Australia and Heinz Wattie’s (Heinz)</p>	<p>Industry – Trans Tasman</p>	<ul style="list-style-type: none"> • Recommends the definitions of ‘vegetables’ and ‘fruit’ are removed from Standard 1.2.7 and the existing definitions from Standard 1.4.2 Schedule 4 are adopted. • Alternatively, the definition of vegetables should be amended to include tomatoes and legumes. • Exclusion of tomatoes and legumes from the ‘vegetable’ definition does not promote consistency with national dietary guidelines. • The definition is inconsistent with that in Standard 1.4.4 and this will cause confusion. • For the purpose of simple ingredient lists (clause 6(3)(c)), tomatoes and legumes should be able to be listed with other vegetables so that one percentage can be provided (rather than tomatoes being listed as a fruit in a vegetable based product).
<p>Horticulture Australia Limited</p>	<p>Industry - Australia</p>	<ul style="list-style-type: none"> • Suggests changes to definitions for fruit and vegetables in the Code and development of definitions for nuts, legumes, spices, seeds and herbs in the Code. • Recommend that reviewing the definition of fruit, vegetable, legumes etc in the Code is not within the scope of P293. • Comments: Is it agreed that current definitions in the Code are sufficient for implementation of this high level health claim?

18. NUTRIENT REFERENCE VALUES

Submitter	Group	Comments
New Zealand Food and Grocery Council (NZFGC) Supported by Unilever Australasia	Industry – New Zealand	<ul style="list-style-type: none"> • Agrees with the need to update NRVs but caution this could cause consumer confusion. • Need to recognise this will result in substantial label changes and thus a very long transition period will be required.
ADECRON Food Tech Consulting	Industry – New Zealand	<ul style="list-style-type: none"> • For DI purposes it would be useful to have reference values for all other fatty acids and potassium and dietary fibre. Incorporation of these soon would be appreciated.
Coles Supermarkets	Industry – Australia	<ul style="list-style-type: none"> • Strongly supports the re-evaluation of the ‘claimable foods’ approach as part of the broader review of the new nutrient reference values. • This should be instigated as a priority, not delayed pending resource availability.
General Mills Australia Pty Ltd and General Mills New Zealand Ltd Cereal Partners Worldwide Nestlé	Industry – Trans Tasman	<ul style="list-style-type: none"> • Supports the intent of a review of nutrient reference values but is cautious of the impact of this review on products that make claims. • There could be significant impact on consumers and the changes could cause consumer confusion.
Heinz Australia and Heinz Wattie’s (Heinz)	Industry – Trans Tasman	<ul style="list-style-type: none"> • Changes resulting from incorporation of new nutrient reference values will potentially mean industry is required to bear huge cost not once but twice. • There will also be heightened confusion for consumers as values on labels will possibly change, although there has been no change to the product. • FSANZ must introduce the new NRVs in line with this proposal to avoid doubling the costs to industry for labelling changes.
Dairy Australia	Industry - Australia	<ul style="list-style-type: none"> • Agrees that the process of updating the NRVs in the Code should be given a high priority and resources and workload adjusted to reflect this. • Agrees that it is important to progress Standard 1.2.7, but predict increasing problems of consumer confusion if the discrepancy between the Recommended Dietary Intakes of the Code and the NHMRC are not revised and aligned into a reference value. • When this work is being commenced, it is important for FSANZ to consider liaising with the printing and packaging industry to ensure their resources will adequately manage the vast associated label and package changes.
Dairy Farmers	Industry - Australia	<ul style="list-style-type: none"> • Recognises the complexity of changing RDI values of nutrients in line with the new nutrient reference values. Any changes will also have considerable ramifications for product developments and packaging so an increased transition time is preferred.

Submitter	Group	Comments
Meat and Livestock Australia	Industry - Australia	<ul style="list-style-type: none"> • Recommends that there is consistency between the proposed standard and the Nutrient Reference Values in relation to including docosapentaenoic acid (DPA) as part of the qualifying criteria for omega-3 fatty acids. • The NHMRC recently revised nutrient intake recommendations to include adequate intakes and suggested dietary targets for EPA, DHA and DPA. Important that nutrition content claims are consistent with the nutrient reference values, as this can cause confusion.
The Cancer Council Australia (Kathy Chapman, Sarah Mackay, Terry Slevin) Supported by the Cancer Council Western Australia	Public Health - Australia	<ul style="list-style-type: none"> • Believes FSANZ should more adequately address the issue of Nutrient Reference Values within both the current proposal and other aspects of food regulation. Acknowledge the large undertaking to bring all aspects in line with the NHMRC Nutrient Reference Values, but believe it is imperative that this is not delayed further. Concerned that this is another aspect of inconsistent policy within Australia.
New Zealand Ministry of Health (Cynthia Maling)	Government – New Zealand	<ul style="list-style-type: none"> • Recommend omega-3/6/9 fatty acid content claims be aligned with NRVs, that is: <ol style="list-style-type: none"> 1. omega-3 fatty acid content claims should be permitted only for alpha- linolenic acid and long chain omega-3 fatty acids (DHA, EPA, DPA) 2. omega-6 fatty acid content claims should be permitted only for linoleic acid 3. omega-9 fatty acid content claims not permitted as there is no reference value.
New Zealand Ministry of Health (Cynthia Maling)	Government – New Zealand	<ul style="list-style-type: none"> • Comments that the new NRVs were in development for at least five years and released in May 2006, believes FSANZ has had sufficient time to incorporate these into existing and new standards. Strongly recommend that this be done as a matter of priority, and before Standard 1.2.7 is finalised. • States this would reduce relabelling costs for industry. • Believes that not incorporating the new NRVs into food standards is a missed opportunity to improve public health. An example is sodium, for which the new NRVs are considerably lower. Using DIAMOND to model realistic reductions in sodium intakes for key food groups, sodium intake from food would be reduced by approximately 25 percent in adults. States that such a reduction in sodium intake in New Zealand adults could prevent 300 deaths per year from ischaemic heart disease and stroke within five years.
The Omega-3 Centre (Wendy Morgan)	Public Health – Australia and New Zealand	<ul style="list-style-type: none"> • Comments: ‘The NHMRC Nutrient Reference Values provide recommendations for intake of Omega- 3s. Recommendations for adequate intakes for long chain Omega-3s are 90 mg/day for women and 160 mg/day for men (NHMRC, 2006). The calculated mean recommendation is therefore 125 mg/day for adults. The current 30 mg and 60 mg minimum content of long chain Omega-3s for source and good source claims represent 24% and 48% of this daily adequate intake respectively. This is appropriate’.

Submitter	Group	Comments
George Weston Foods Limited	Industry - Australia	<ul style="list-style-type: none"> Consider the new NRVs need to be addressed as a matter of priority as these were released by the NHMRC 12 months ago. A change in nutrient reference values in the Code will have major implications for health claims, especially in relation to vitamin and mineral claims and further changes to the Code will require further packaging changes and therefore considerable investment by industry. This is another area in which FSANZ has been inconsistent in its approach across different proposals. Within P295 and P230 FSANZ have used the new NRVs but have failed to address these as part of P293. Postponing recommendations on NRVs to a later proposal will require packaging updates and costs to industry, especially to George Weston as we are currently affected by P295 and P230.
Fonterra Co-Operative Group Limited	Industry – Australia & New Zealand	<ul style="list-style-type: none"> Recommends that FSANZ references the NHMRC Dietary Guidelines as the recognised regulatory NRVs rather than stipulating each individual NRV though out each standard – this would be less time consuming and allow a timely review of the update of Standard 1.2.7 as required.
Goodman Fielder Limited	Industry – Australia & New Zealand	<ul style="list-style-type: none"> Suggests that FSANZ incorporates the new Nutrient Reference Values in the Food Standards Code immediately so manufacturers can be consistent with other organisations in the NRVs and associated RDIs on food labels. Notes that the new, thoroughly scientifically researched, nutrient reference values were published in May 2006, yet food manufacturers cannot use them as are bound by the requirement to use the outdated values in the Food Standards Code. Considers that this will erode consumers’ confidence in food manufacturers, for example their GP/dietician may tell them the RDI for a certain nutrient is a certain value, and they may see that this differs from a food label. In addition, they would like a single labelling change, rather than one for health claims, then another for updated NRVs.
Kellogg (Aust) Pty Ltd	Industry - Australia	<ul style="list-style-type: none"> Support a further extension of the development of the standard to allow the appropriate changes to take place for the transition to new nutrient reference values, to minimise cost to manufacturers.
Australian Food and Grocery Council (AFGC) Supported by Simplot	Industry - Australia	<ul style="list-style-type: none"> Notes there has been no consultation on these claims, pending the new nutrient reference values being released. Submission includes original comments regarding unsaturated fatty acid claims, as submitted in response to the Initial Assessment Report for P293.

19. TRADE MARKS

Submitter	Group	Comments
New Zealand Food and Grocery Council (NZFGC) Supported by Unilever Australasia	Industry – New Zealand	<ul style="list-style-type: none"> Concerned at the suggestion that FSANZ may be linked into the trademark registration process. This would add delay and complexity and requires further consultation with the industry.

Submitter	Group	Comments
General Mills Australia Pty Ltd and General Mills New Zealand Ltd Cereal Partners Worldwide Nestlé	Industry – Trans Tasman	<ul style="list-style-type: none"> • Concerned that Standard 1.2.7 could prevent the use of relevant unregistered trade marks. This is of concern for those products already using acceptable common law trade marks. • This could mean the need to re-brand products and experience has shown this can be the downfall of a particular product portfolio. • This situation would need to be managed carefully as there would be significant cost impact to the manufacturer due to market research, brand redesign and assessment, label redesign and implementation with strong consumer communication involved. • Are extremely concerned that FSANZ could be linked into the trademark registration process, as there are already delays in the application process and the involvement of FSANZ would add another layer or complexity. • It is unclear what would trigger the Trade Marks Office to consult with FSANZ on trade mark issues. • Trade marks might be applied for a category of foods, e.g. a type of beverage, rather than a particular food. Often the final composition of the food is not known and an objection might be made for a standard 1.2.7 compliant trade mark. Manufacturers would not provide compositional information about the particular product that is subject to the trade mark application. • If an objection were raised against a trade mark, it would be unclear whether the applicant would be dealing with a FSANZ objection or a trade mark office objection. • This aspect requires further consultation with industry as evaluation of the situation progresses.
New South Wales Food Authority	Government - Australia	<ul style="list-style-type: none"> • Strongly opposed to the proposed exemption for trademarks from Standard 1.2.7. NSW favours the rigid classification framework established by Standard 1.2.7 for the labelling of foods with health information and considers it to be poor public policy to create ‘loopholes’ in this framework. NSW considers the blanket exemption proposed for trademarks to be such a ‘loophole’ and seeks its withdrawal before consideration of Standard 1.2.7 by the FSANZ Board. • An example of a registered trademark in the current marketplace is ‘Heart Active’. This trademark is used on a variety of dairy products including milk and yoghurt and NSW considers that these words, apart from possible exemption through trademark status, would clearly contravene proposed Standard 1.2.7 (as well as the current standard). It would be a poor public policy outcome if these words were allowed on food labels merely because the manufacturer has registered them as a trademark. • NSW does not consider that this ‘loophole’ can be effectively addressed by reliance on jurisdictions objecting to proposed trademarks for several reasons. Firstly, jurisdictions would need to maintain a watching brief on all proposed trademarks and it is unlikely this would occur in practice. Secondly, the Registrar of Trademarks has wide discretion and is unlikely to be well versed in the requirements or public policy behind Standard 1.2.7. Thirdly, the simpler and more efficient course is simply for the standard to remain silent on trademarks and allow it to regulate the content of trademarks to the extent the law allows. • In this regard, NSW considers that the position stated by FSANZ in the Preliminary Final Assessment report is not an accurate representation of the law as applicable to the use of trade marks in contravention of the Code. NSW considers that registration of a word under the <i>Trade Marks Act 1995</i> does not permit the use of that word in a health claim and has obtained specific advice from senior counsel confirming this position. •

Submitter	Group	Comments
		<p>Counsel’s opinion is that, regardless of whether a word is registered as a trademark or unregistered, it still is capable of breaching the Standard in respect of Health Claims. The NSW Food Authority would be pleased to discuss this matter with FSANZ further.</p>
<p>Department of Agriculture, Fisheries and Forestry (DAFF)</p>	<p>Government - Australia</p>	<ul style="list-style-type: none"> • Concerned that it is unclear how the use of existing registered trade marks, or those registered prior to the implementation of the standard, will be treated once the standard is gazetted. • Believes that this situation requires further consideration, particularly in relation to trade marks that include terms such as ‘diet’ or ‘lite/light’.
<p>Campbell Arnott’s Asia Pacific</p>	<p>Industry - Australia</p>	<ul style="list-style-type: none"> • Supports the removal of trade marks from the Standard.
<p>The Cancer Council Australia (Kathy Chapman, Sarah Mackay, Terry Slevin)</p> <p>Supported by the Cancer Council Western Australia</p>	<p>Public Health - Australia</p>	<ul style="list-style-type: none"> • Disagrees with FSANZ’s proposal to exclude trademarks from the operation of the Standard. • Share FSANZ’s concerns, as expressed in the Draft Assessment Report that exclusion of trade marks from the Standard ‘would provide a clear loophole enabling free use of what would otherwise be regulated in accordance with the Standard ... [and] ... would have obvious potential to undermine the entire Standard.’ • Does not believe that exclusion of trademarks from the Standard is necessary for constitutional reasons. • Comments: ‘we received advice from an expert in trademark law that application of the Standard to trade marks would not make State and Territory food laws implementing the Standard constitutionally invalid by reason of inconsistency with the Trade Marks Act 2005 (CTH). The right to use a trademark exists at general law – this right is not created upon registration of a trademark under the Trade Marks Act. Accordingly, the purpose of section 20 of the Trade Marks Act is not to give the registered owner of a trademark the right to use that trademark. Rather, the purpose of section 20 is to make the right to use a trademark (or to authorise the use of the trade mark by others) exclusive to the trademark owner upon registration. In other words, the purpose of section 20 is to give the registered owner of a trademark the right to prevent others from registering the trademark, or using the trade mark without authorisation’. • Comments: ‘the purpose of section 20 of the Trade Marks Act is certainly not to create a right to use a trade mark, even where use of the trade mark would be contrary to law. In fact, under the Trade Marks Act, a ground for rejecting an application for registration of a trademark, opposing registration, or applying for cancellation of registration, is that use of the trade mark would be contrary to law. ‘Law’ in this context means a law of Australia, and includes State and Territory laws. This indicates that the Trade Marks Act was intended to operate concurrently with State and Territory laws preventing the use of certain trademarks. This is also made clear by the fact that some existing State and Territory laws would prevent the use of certain trademarks. For example, State and Territory fair trading legislation would prevent use of a trademark that was misleading and deceptive’. • States that the effect of excluding trademarks from the operation of the Standard would be that food manufacturers would only have to register health claims as trade marks to be able to use them freely. Believes this would be an absurd and undesirable policy outcome, which is not required by the law.

Submitter	Group	Comments
The New Zealand Food Safety Authority (Carole Inkster)	Government - New Zealand	<ul style="list-style-type: none"> Concerned over the exclusion of trademarks from the scope of the health claims standard as per subclause 2(2). Strongly suggests that subclause 2(2) of Standard 1.2.7 is removed from the drafting. State this would allow trademarks that contravene provisions of the Health Claims standard to be challenged during the registration process as suggested by FSANZ in the PFAR. Of the understanding that in New Zealand, even if a trademark is registered it cannot be used in a way that contravenes other law. Thus even if a trademark is registered, any use of that trademark which contravenes provisions in the Food Standards Code can be enforced under the Food Standards Code. States that this would not be the case however if subclause 2(2) was to remain in Standard 1.2.7.
Go Grains Health and Nutrition Limited	Industry - Australia	<ul style="list-style-type: none"> Believes clarification is required in regard to the use of registered trademarks as opposed to certified trademarks. In particular, they propose that the Go Grains '4 plus serves per day' logo used on pack would constitute 'dietary information' rather than a health claim. Products using the logo would be required to meet criteria consistent with dietary guidelines.

20. HEALTH CLAIMS AND FORTIFICATION

Submitter	Group	Comments
George Weston Foods Limited	Industry - Australia	<ul style="list-style-type: none"> As part of industry consultation with FSANZ on P295 – Mandatory Fortification with Folic Acid, concern over the wording of the current folic acid and neural tube defect claim has been raised on numerous occasions. FSANZ have failed to acknowledge and recommend any changes to the current wording of the claim which is not consumer friendly and is therefore currently of limited use to industry. George Weston considers that it is essential that FSANZ address this issue prior to the Final Assessment Report for Proposal P293. Also concerned that some products that will be required to contain mandatory levels of folic acid if P295 proceeds will not meet the criteria for use of the folic acid health claim. <i>(Provided in their submission is Figure 1: Difference in folic acid levels – voluntary versus mandatory and required level of folic acid for use of folic acid health claim).</i> Notes that under the Table to clause 7, a product must contain no less than 65 micrograms of folic acid per serving in order to use the high level health claim. Under the mandatory folic acid levels recommended to be added to bread by FSANZ under P295, some bread will not qualify to use this claim because of the low level of flour (and therefore folic acid) in the final product. The majority of the products not complying are heavy grain breads which are currently marketed to (and consumed by) women of childbearing age.

Submitter	Group	Comments
George Weston Foods Limited	Industry - Australia	<ul style="list-style-type: none"> Notes that the FSANZ issues paper on Proposal P230 – Mandatory Fortification with Iodine refers to ‘<i>criteria for claims about the presence of iodine and associated health claims in bread are being considered under Proposal P293 – Nutrition, Health and Related Claims</i>’. Notes that there appears to be no mention of iodine within the Preliminary Final Assessment Report. Considers it is essential that FSANZ recommend the use of health claims in relation to iodine and mental development and function and criteria for the use of these claims prior to the finalisation of P293. Such work should have been included in the Preliminary Final Assessment Report and circulated for stakeholder feedback. Further comment on iodine health claims will be made within their submission to the issues paper for P230.
Australian Food and Grocery Council (AFGC) Supported by Simplot	Industry - Australia	<ul style="list-style-type: none"> Recommends that FSANZ include an iodine content claim and health claim before concluding consideration of Proposal P293 based on their own advice in proposal P230 for the mandatory fortification of the food supply with Iodine. As claims are limited to claimable foods, manufacturers are prevented from informing consumers about the benefits of iodine. There is therefore limited incentive to switch to iodised salt. FSANZ must have demonstrated scientific evidence to support the link between iodine and iodine deficiency disorders as they are proposing mandatory fortification. The P230 Issues Paper states that the issue of claims about iodine are being considered under P293 however, there is nothing in P293 that addresses this.
The New Zealand Nutrition Foundation (Kelsey Woodcock)	Public Health – New Zealand	<ul style="list-style-type: none"> Concerned due to the risk of conflicting messages with regard to the promotion of iodised salt in bread. Suggest further research into other vehicles for iodine, such as potassium iodide or similar salt of potassium with iodine.

20.1 Summary of relevant submitter comments to P230 Issues Paper (May 2007)

Submitter	Group	Comments
George Weston Foods Limited	Industry - Australia	<ul style="list-style-type: none"> Questions whether the fact that most breads won't be able to make a ‘good source’ claim for iodine will be confusing for consumers if as part of the communication program consumers are being told to consume bread for their iodine intake. Concerned that despite FSANZ suggesting that criteria for claims about the presence of iodine and associated health claims on bread are being considered under P293, there was no mention of specific iodine claims in the P293 document. If iodine is such an important issue, a health claim should have been proposed in the PFAR or at Draft Assessment. Calls on FSANZ to resolve this issue prior to final assessment for P293 and P230. Suggestions for claims: <ul style="list-style-type: none"> – ‘iodine for healthy brain development’ – ‘iodine – required for a healthy pregnancy’ The use of iodine health claims has the potential to be a source of useful information for consumers if they are worded in a consumer-friendly way and can be used by industry to assist in the education.

Submitter	Group	Comments
AFGC	Industry - Australia	<ul style="list-style-type: none"> • Notes FSANZ have proposed a pre-approved general level health claim: ‘iodine is necessary for normal production of thyroid hormones’. States it is unlikely that industry would use such wording as there is no consumer recognition of thyroid hormones. Recommends an action statement with words to the effect that: <ul style="list-style-type: none"> – Iodine is necessary for normal/active metabolism – Iodine is necessary for normal/active brain development – Iodine is necessary for normal/active metabolism, growth and brain development. • Any iodine claims should be generally available and not limited in use to bread but available for inclusion on products that contribute 10% RDI of iodine per serve. • Current restrictions on vitamin and mineral claims in Standard 1.3.2 restricts the role the food industry can play in communicating iodine content levels to consumers. Iodine content claims are only permitted on claimable foods. These restrictions prevent iodised salt from making an iodine content claim. There are no provisions under Standard 2.10.2 for an iodine content claim. • Recommends Standard 2.10.2 is amended to allow iodised salt to make an iodine content claim indicating the amount of iodine per 100 g without this triggering the need for a full NIP. • The current restrictions limit a number of products from making iodine content claims if they were to replace salt with iodised salt. This provides no incentive for food industry to replace salt with iodised salt in these products, e.g. gravies and gravy mixes, sauce and sauce mixes, meal bases, salad dressings. • Recommends amendment to the Code to allow products that contain iodised salt to make iodine content claims.
New Zealand Association of Bakers Inc	Industry – New Zealand	<ul style="list-style-type: none"> • Proposes a new approach where government and industry enter into a memorandum of understanding that significantly increases the number of breads that contain iodised salt; and that government actively promotes, through a government funded and industry supported education campaign, the benefits of those breads containing iodine. • This approach would require independent validation from Health Authorities to ensure consumer buy-in. • Education would need to clearly stress the benefits of iodised salt in those bread products that contain iodine and industry would need permission to highlight these benefits on packaging and point of sale material without compromising their standing within the current health claims legislation. • As statements of benefits need to be simple and show consumers clear benefits, these should be along the lines of ‘The iodine in this bread will help promote learning’ rather than ‘iodine will help prevent diseases related with iodine deficiency’. The latter means nothing to the average consumer. • Believes retention of choice will improve the ability to educate as comparisons can be made for the consumer.

Submitter	Group	Comments
Cerebos	Industry	<ul style="list-style-type: none"> • Seeks reassurance that all comment submitted about iodine nutrient and iodine health claims as part of this consultation process will be reviewed and considered in relation to the finalisation of P293. • Requests FSANZ introduce a pre-approved general level iodine health claim, based on the cause and effect evidence used by FSANZ as the basis for recommending a mandatory fortification option. FSANZ is satisfied with the cause and effect relationship and therefore it appears logical that this relationship should support a pre-approved general level iodine health claim. • An iodine health claim should be generally available: not limited in use to bread but available for inclusion across a variety of products that contribute 10% RDI of iodine per serve. • Concerned that the current health claim statement proposed by FSANZ during their teleconference consultation – ‘Iodine is necessary for normal production of thyroid hormones’ will not be meaningful to consumers. Their preferred wording is ‘Iodine is necessary for normal metabolism, growth and brain development’. • Alternate recommendation would be to build off the current FSANZ statement and explain why thyroid hormones are important for health, e.g. ‘Iodine is necessary for the production of thyroid hormones needed for normal metabolism, growth and brain development’. • Notes limit in Standard 1.3.2 for nutrition claims about iodine to claimable foods only. This restricts the role the food industry can play in communicating iodine content levels to consumers. • These restrictions prevent iodised salt from making an iodine claim. There are no provisions under Standard 2.10.2 that permit an iodine content claim on iodised salt. • Recommends Standard 2.10.2 is amended to allow iodised salt to make an iodine content claim indicating the amount of iodine per 100g without this triggering the need for a full NIP. This will enable consumers to monitor their iodine intake via their use of discretionary salt and also provide useful information to allow consumers to make informed decisions when considering switching discretionary salt intake to iodised. • Not advocating the promotion of salt intake but rather consumers that do switch their discretionary salt use from non-iodised to iodised salt should be able to obtain information on the label in relation to the iodine content. • Recent launch of AWASH and their monitoring will place pressure on manufacturers to reduce the level of salt in manufactured products and there is no evidence to indicate that allowing iodine content claims will impede attempts to lower the salt content in manufactured products. • Would like to see provisions for iodine claims on wider range of products. This may result in greater industry adoption of voluntary addition of iodised salt to manufactured foods, e.g. gravies, gravy mixes, sauce and sauce mixes, meal bases, salad dressings and cooking aids. • Recommends FSANZ amend Standard 1.3.2 to allow foods that contain iodised salt to make iodine content claims when a serve contains 10% of the RDI for iodine. • Allowing industry to communicate the benefits associated with iodine intake on food labels would enable labels to be used effectively as part of the education and communication strategy.

20.2 Claims on special purpose foods

Submitter	Group	Comments
ADECRON Food Tech Consulting	Industry – New Zealand	<ul style="list-style-type: none"> • It is blatantly unfair not to include sports foods under the health claim regime of 1.2.7. • She has scored a product (high protein with no added sugar, virtually no saturated fat and low sodium) with a minus 6 score! • These products often have substantial health benefits and have research to back up claims and should not have to wait for the specific legal reviews mentioned to be completed.
Nestlé	Industry – Trans Tasman	<ul style="list-style-type: none"> • FSANZ states that the reviews of these standards are on the work programme, however some of these standards, e.g. standard 2.9.4 Formulated Supplementary Sports Food, have been under review since May 2001 and these reviews need to be completed. • Standard 2.9.5 – Foods for Special Medical Purposes, which have also been under review for nearly 6 years. The products in this category will require jurisdictions to continue to be lenient on these types of products regarding the mention of disease states and any non-compliance with aspects of standard 1.2.7, including eligibility criteria. Some of the products will be provided in a hospital setting (not subject to the standard 1.2.7) but much of the food will be provided to non-hospitalised consumers suffering from particular disease states and therefore the products would be subject to the standard. • Foods for athletic performance must be provided with the same opportunities as other foods. • Notes progress of the review of standards 2.9.4 and 2.9.5 and believe that the timing for the finalisation of Standard 2.9.5 has become critical as there is the potential for certain foods for consumers that have limited choices in what they can eat to have their food supply deemed illegal. This is an unacceptable situation. • FSANZ has stated that an alternative proposal would be to provide transitional arrangements under the specific standards in the relevant standards of part 2.9. If this occurs then measures would need to be in place when standard 1.2.7 is gazetted. • Reviews of the requirements for ‘Food Type Dietary Supplements’ and ‘Non-Culinary Herbs in Foods’ need to be addressed now with the finalisation of the position of health claims occurring.
Complementary Healthcare Council of Australia (Allan Crosthwaite)	Other - Australia	<ul style="list-style-type: none"> • Does not support FSANZ’s position in relation to the review of Part 2.9 including 2.9.4. • Comments that matters on the Work Plan are currently not being satisfactorily progresses, for example P236 Sports Foods.
Fonterra Co-Operative Group Limited	Industry – Australia & New Zealand	<ul style="list-style-type: none"> • Does not support claims related to physical performance being regulated under the proposed Standard 1.2.7.
Dairy Australia	Industry - Australia	<ul style="list-style-type: none"> • Does not support claims related to physical performance being regulated under Standard 1.2.7 (p.140). • Special purpose foods are for groups with special dietary needs such as athletes, not general consumers. For example, a whey protein powder is a tailored product for those carrying out muscle training. Research demonstrates that it can assist in building muscle in such individuals. • Recommends that performance claims should not be regulated under the proposed standard.

Submitter	Group	Comments
Heinz Australia and Heinz Wattie's (Heinz)	Industry – Trans Tasman	<ul style="list-style-type: none"> • Suggests that the requirement to declare %RDI when a nutrition content claim is made is not applicable to foods standardised under Standard 1.2.8. The Purpose for Standard 1.3.2 excludes 2.9.2 from the Standard. • Suggests that the %RDI is not calculated using reference values in Standard 1.1.1 for foods in 2.9.2. • Interpret the current Purpose of Standard 1.3.2 as excluding foods Standardised under 2.9.2, including the formatting of %RDI statements. The new proposed Purpose does not make this exclusion. Recommends the new Purpose be modified to include a full exclusion of foods standardised under Standard 2.9.2. • May not always use the formatting prescribed in Standard 1.3.2 for %RDI for infant foods as it may not be useful or logical because of room limitations on small labels or when foods are suitable for infants from 10 to 15 months and therefore cover two RDIs, in which case the %RDI for both age groups is provided (see example provided in submission).
Heinz Australia and Heinz Wattie's (Heinz)	Industry – Trans Tasman	<ul style="list-style-type: none"> • Recommends FSANZ reconsider the criteria for claims on foods for infants (Std 2.9.2) in relation to nutrients other than vitamins and minerals, such as protein, dietary fibre, and omega-3. • The criteria for claims about nutrients listed in clause 6(1)(c)(i) and (ii) are based on adult requirements, which differ to infant's requirements, for example the criteria for claims about omega-3 are 75% of the AI for young children but 19% of the AI for men (submission includes table with other examples). • Standard 2.9.2 (clause 6(2)) regulates protein levels for infants and clause 6(3) regulates protein claims. Therefore the protein should be excluded from the Std 1.2.7 Clause 6 (1) (c) (i) in relation to infant foods.
Department of Human Services - Victoria	Government - Australia	<ul style="list-style-type: none"> • Of the opinion that health claims for those foods regulated under Standard 2.9.2 Foods for Infants and Standard 2.9.3 division 4 – Formulated Supplementary Foods for Young Children, except where the claim is specifically allowed under these standards, should be considered independently of health claims for foods manufactured under other Standards. Primarily we consider that the content criteria and disqualifying criteria have been devised for adult populations and are therefore not relevant to young children.
Department of Health and Human Services - Tasmania	Government - Australia	<ul style="list-style-type: none"> • Given that any claims are likely to be based on the current RDI listed in the Code, it is inappropriate to have adult RDI referring to claims on infant foods. • Seeks clarification on the eligibility of all foods in Part 2.9 of the Code to make health claims.
Heinz Australia and Heinz Wattie's (Heinz)	Industry – Trans Tasman	<ul style="list-style-type: none"> • Agrees that foods standardised in Standard 1.2.8 are excluded from these conditions (Table to clause 11). • Requests that clarification be made that claims in relation to salt are still permitted in foods for infants.

21. GENERAL COMMENTS

Submitter	Group	Comments
Australian Beverages Council Ltd Supported by Unilever Australasia	Industry - Australia	<ul style="list-style-type: none"> • Supports the principles of general level health claims not requiring pre-approval and nutrition content claims not being subject to disqualifying criteria, but does not support the complexity of the draft Standard.

Submitter	Group	Comments
<p>Australian Food and Grocery Council (AFGC)</p> <p>Supported by Simplot</p>	<p>Industry - Australia</p>	<ul style="list-style-type: none"> • Concerned that FSANZ is attempting to cover every angle and hear every concern and has lost it way on health claims regulation, producing a standard with a high degree of complexity for consumers, industry and enforcement agencies. • There is likely to be increased confusion for industry about what is or is not permitted, with the consumer the ultimate loser. • Are a simple set of rules still possible. Considers it is possible, is consistent with FSANZ statutory objectives and has due regard for Ministerial Council policy guideline. • Recommends: <ol style="list-style-type: none"> 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 the portion contributes to the diet. However, for products where the serve size is above 100 g, the claims should relate to 100g or mL in the case of liquids. Quantities above 100 g are more likely to be major contributors to the diet and the amount consumed is often more readily decided by the consumer. 7. Relative claims should be permitted: <ul style="list-style-type: none"> ○ 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: a Low - Below physiological significance, therefore evaluated case by case. 9. Other claims - <ol style="list-style-type: none"> a Light (and variants) - As for Reduced b Diet - 25% further reduction in energy than Reduced or meets 'Low'. 10. Disqualifying Criteria are not required. 11. Industry should 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 for high level health claims.
<p>Community and Public Health, Canterbury District Health Board</p>	<p>Public Health – New Zealand</p>	<ul style="list-style-type: none"> • The Standard is largely in favour of industry and the interests of consumers are not given equal emphasis in the option analysis. • Many claims are misinterpreted by consumers and there is never enough information to put any one food in the context of a healthy diet.

Submitter	Group	Comments
Confectionery Manufacturers of Australasia (CMA) New South Wales Branch. Victorian Branch, South Australian Branch, Queensland Branch, New Zealand Branch International Confectionery Association	Industry – Australia	<ul style="list-style-type: none"> • Supports the development of a new standard but believes that it is in the interests of best practice and consistency to align P293 with international legislation and standards, which in turn meets the FSANZ goal of achieving greater regulatory simplicity and international consistency. • Is over-prescriptive in terms of restricting capacity to innovate and thereby meet consumer expectations for better product, and compromises ability to develop and sustain export market opportunities.
Kraft Foods Limited	Industry - Australia	<ul style="list-style-type: none"> • Health claims should be permitted provided they are based on sound science. • The proposed health claims are cumbersome, complicated and not based on sound science in the way Blair recommended they should be. • They are not in line with the principle of ‘self-regulation with a light touch of regulation’ and they do not aid the consumer understanding the criteria. • Outlined a set of simple rules to assist the process: <ol style="list-style-type: none"> 1. Claims should be permitted, providing they can be justified. 2. %DI should be declared if there is space. 3. Content claims should be based on serve size. 4. Standards for comparative claims should be consistent. 5. Disqualifying criteria are not required. 6. The proposed high level claims should be permitted. • Submission provides further detail about each rule. • Recommends FSANZ review the recommendations based on the Blair principles as these are the basis on which current food regulatory infrastructure was established. • Notes the benefits of a simple approach they apply to consumers.
New Zealand Food and Grocery Council (NZFGC) Supported by Unilever Australasia	Industry – New Zealand	<ul style="list-style-type: none"> • Express concern that the enactment has taken so long, due to opposition to health claims as expressed by some stakeholders, but also due to the increasing complexity of the Standard. • Agrees that all claims must be substantiated for the protection of public health and safety, but are concerned that the requirements of the proposed standard have added increasing complexity that will present difficulties for consumers, industry and enforcement agencies.
ADECROON Food Tech Consulting	Industry – New Zealand	<ul style="list-style-type: none"> • Must be gazetted with a transition period of 2 years, not waiting for 2 years before being allowed to make a health claim, as is suggested at the end of the draft Code.

Submitter	Group	Comments
Coles Supermarkets	Industry – Australia	<ul style="list-style-type: none"> • Commends FSANZ on producing a draft standard after 8+ years of consultation. • Now eagerly await and actively encourage FSANZ and relevant government bodies to implement the proposed draft standard.
Chamber of Commerce and Industry WA	Government - Australia	<ul style="list-style-type: none"> • Reiterated support for regulatory option 2, that was proposed at Initial Assessment/Draft Assessment: <ul style="list-style-type: none"> – General level claims to be in guideline – High level claims in a Standard • Considered this option offered more flexibility for amending the Standards in response to technology and innovation; and more flexibility for manufacturers in marketing products. • Proposed regulatory approach for nutrition content claims and general level claims is thought to stifle innovation due to length of time required to vary a standard – in relation to current application process involving two rounds of public consultation, Board and Ministerial Council approval. • Long application process can potentially stifle innovation to the extent that a company’s intellectual property is exposed to competitors during the process, which in turn limits the company’s opportunity to recover its research and development costs from the market. • Argues that the regulatory burden for Small-Medium Enterprises (SMEs) remains disproportionate compared with large enterprises and reiterates that any regulatory requirement should not be onerous.
Dairy Australia	Industry - Australia	<ul style="list-style-type: none"> • Supports option 2 to modify the requirements for Nutrition, Health and Related claims proposed at Draft Assessment as proposed at Preliminary Final Assessment.
Australian Medical Association (Dr Margaret Chirgwin)	Other - Australia	<ul style="list-style-type: none"> • Serious reservations about the introduction of nutrition, health and related claims. Believes that much of the Proposal is industry driven and does not place adequate emphasis on improving and protecting public health. • Comments that the evidence for a low fat or high protein diet being healthy over a long period is limited and should not be encouraged by a labelling system. • Encourages FSANZ to undertake more consumer research on initiatives that will assist consumers with food choice. • States that some element of the Proposal will only serve to further confuse consumers
New Zealand Ministry of Health (Cynthia Maling)	Government – New Zealand	<ul style="list-style-type: none"> • Very concerned that Standard 1.2.7, as proposed in the PFAR, does not provide any evidence that it will protect and promote public health. • Does not see clear evidence that permitting nutrition and health claims on a wide range of energy-dense processed foods will assist consumers when selecting foods. • Believes consumers will be overwhelmed and confused by the number of claims, particularly claims which are inconsistent with national guidelines for healthy eating, as included in the New Zealand Food and Nutrition Guidelines and the Australian Dietary Guidelines. • States that without considerable changes Standard 1.2.7 has potential to undermine a wide range of HEHA and Mission-On initiatives. • Comments that many of the changes made since draft assessment benefit industry and disadvantage consumers, such that Standard 1.2.7 now clearly favours industry over public health. States that this is evidenced by:

Submitter	Group	Comments
		<ol style="list-style-type: none"> 1. Standard 1.2.7 was prioritised over updating the food standards to include the new Nutrient Reference Values (NRVs) for Australia and New Zealand. 2. The wide range of foods eligible to carry a health claim, including foods that are inconsistent with the evidence included in the NRVs and national guidelines for healthy eating. 3. No provision of evidence by industry that nutrition and health claims improve dietary intake or health status in the general population, however we believe there is indirect evidence that nutrition claims can increase product sales (via continued high investment in developing and marketing these products). 4. Consumers do not differentiate between general and high-level health claims, yet substantiation criteria for general level health claims are much less stringent. 5. Potential inconvenience and cost to industry were mentioned throughout the PFAR, yet these factors were not considered with respect to consumers, or health and enforcement agencies. 6. Consultation with industry appears to have been more extensive than consultation with public health and consumer groups. 7. Enforcement of the standard will be extremely difficult because of the large number of eligible foods and because the level of evidence (e.g., probable) required to support health claims is subject to interpretation and distortion. <ul style="list-style-type: none"> • A general concern with the standard is that it focuses on individual nutrients and individual foods, not the overall nutritional quality of a food or diet, or other lifestyle factors such as physical activity. Believe that a statement about the importance of overall diet and other relevant lifestyle factors should accompany all nutrition content and health claims. • Concerned that the Standard focuses on packaged food, which is usually processed. Comments that many raw vegetables and fruit are not packaged. Although these will be eligible for health claims, considerable work will be required to develop nutrition labels and information, and it is unclear who would undertake this work. • Concerned that health claims may increase inequalities in health as products that are healthier and those carrying claims tend to cost more than less healthy alternatives. • Prefers the term ‘vegetables and fruit’ rather than ‘fruit and vegetables’ throughout the standard, including the nutrient profiling system. • Once implemented, recommends a regular review of Standard 1.2.7 to ensure compliance and to determine whether the standard is effective in promoting and protecting public health.
Obesity Action Coalition (Leigh Sturgiss)	Public Health – New Zealand	<ul style="list-style-type: none"> • Believes that the standard is largely in favour of industry and while the health of the consumer is considered, it appears its importance is not held equally with that of the interests of industry. • Would like to see trans fatty acids listed on all food labels as a percentage of total fat.
Private (Jack Ward)	Consumer - Australia	<ul style="list-style-type: none"> • Suggests a review of fat which is currently total lipids, believes this should not be used when nutrient content claims are made and that the FDA definition is more appropriate. • Supports Option 2 pg 135

Submitter	Group	Comments
The Cancer Council Australia (Kathy Chapman, Sarah Mackay, Terry Slevin) Supported by the Cancer Council Western Australia	Public Health - Australia	<ul style="list-style-type: none"> Concerned that there is a lack of evidence that a system for nutrition, health and related claims, such as is proposed in P293, leads to behaviour change and improved public health through healthier food choices. States that at the same time, there is substantial risk that nutrition and health claims can confuse or mislead the public. Concerned about the possibility of food manufacturers making specific health claims in relation to cancer, as well as nutrition claims about the healthiness of foods. Urges FSANZ to ensure the regulatory framework of P293 is consistent with existing public health nutrition policies that promote an overall healthy diet. States that the current proposal is not entirely consistent with current nutrition policies, especially with regard to the lack of disqualifying criteria for nutrition content claims.
Dietitians Association of Australia (Ms Kate Poyner)	Public Health - Australia	<ul style="list-style-type: none"> Supports most of FSANZ's preferred options and comments that the Preliminary Final Assessment Report is a major improvement on the existing situation for food labelling and health claims.
Glycemic Index Symbol Program (Alan Barclay)	Public Health - Australia	<ul style="list-style-type: none"> Believes the draft legislation for Standard 1.2.7 presented in the Preliminary Final Assessment Report is a significant improvement over that provided in the Draft Assessment Report. Overall, support the majority of FSANZ's stated preferred regulatory options.
The National Heart Foundation of Australia (Anne-Marie Mackintosh)	Public Health - Australia	<ul style="list-style-type: none"> Supports most of the FSANZ preferred options. Believes the draft legislation incorporates many of the suggestions made by the Heart Foundation and other health agencies in March 2006. Supports giving permissions for substantiated health and nutrition claims on food labels and in advertisements as a form of public health intervention to support public health nutrition priorities. Supports the development of a new food standard over a guideline.
The National Heart Foundation of New Zealand (Anna Malan)	Public Health – New Zealand	<ul style="list-style-type: none"> Supports the development of a new standard for health , nutrition and related claims and in general supports the proposed Standard 1.2.7
New Zealand Dietetic Association (Jan Milne)	Public Health – New Zealand	<ul style="list-style-type: none"> Believes that the comments submitted during the last round of consultation were fairly considered. Supports Option 2, to amend the draft standard 1.2.7 as proposed at Preliminary Final Assessment.
The New Zealand Nutrition Foundation (Kelsey Woodcock)	Public Health – New Zealand	<ul style="list-style-type: none"> Acknowledges the vast amount of work and research that has gone into the Preliminary Final Assessment Report since Draft Report in 2006. Comments there is currently no information defining FSANZ's concept of a serve, with serving sizes on packaging having no consistent reference standard. Recommends FSANZ develop criteria for determining serving size of individual foods – believes this could potentially be based on the new profiling system. Believes consumers do not understand the term 'diet' as it is commonly interpreted as 'a disciplined restriction of one or more foods' or being asked to eat food(s) they don't like for a variety of reasons. Recommend that FSANZ avoid the term 'diet' and replace with term such as 'daily eating pattern'

Submitter	Group	Comments
The Omega-3 Centre (Wendy Morgan)	Public Health – Australia and New Zealand	<ul style="list-style-type: none"> • Supports the development of a new standard for health, nutrition and related claims. • Supports the conditions for nutrient content claims related to long chain Omega-3s which are the same as the current requirements. • Recognises that FSANZ has included long chain Omega-3s in the updated NUTTAB food composition tables and congratulate FSANZ for this direction.
The Public Health Association of Australia (Kemmett)	Public Health - Australia	<ul style="list-style-type: none"> • Believes regulation must be motivated by and developed and implemented for public health interests and not food marketing. • Comments that the standard will help protect and promote public health and safety if it supports an environment in which core foods (fruits, vegetables, breads and cereals, milks, yoghurts and cheeses, meat and meat alternatives) are promoted within the context of a healthy diet profile and the consumption and availability of highly processed foods (high fat, salt, sugar, energy dense and nutrient poor) are discouraged. • Acknowledges the complex and substantial amount of work that FSANZ has undertaken since the Draft Assessment Report for P293. Commends FSANZ on several important inclusions and improvements that have been made to the proposed standard, e.g. the approach to health claims eligibility for certain core foods such as fruits, vegetables, whole milk and certain cheeses. • Concerned that the proposed standard still does not pay sufficient attention towards FSANZ’s primary objectives of protecting public health and safety. In particular, is concerned that proposal P293 is fundamentally flawed in that it is dominated by a nutrient-centred and reductionist approach to assessing foods and claims permissions, to the detriment of a holistic approach that places food in the context of a total diet. • Comments that there is a lack of evidence that health claims provide any public health benefit. • Draws FSANZ’s attention to experience with related food standards in North America where the evidence is that the regulatory framework has fostered a marketplace dominated by the marketing and consumption of highly processed, non-core foods.
Mrs. Mac’s	Industry – Australia	<ul style="list-style-type: none"> • Contends that it is the diet, not individual foods that are important. In common with many international food manufacturers, Mrs. Mac’s has three pronged nutrition policy; the first tier of which is aimed at improving the nutritional quality of existing lines. • This could be done by added a raft of benefits such as ‘low GI’. Because Mrs. Mac’s do not meet the baseline profiling criteria, are unable to make these claims. This means that consumers could miss out on significant dietary improvements and limit the ability of governments to gain public health benefits on a larger scale.
Parmalat	Industry – Australia	<ul style="list-style-type: none"> • Supports option 2 to modify requirements for nutrition, health and related claims as proposed at Preliminary Final Assessment.
Association of New Zealand Advertisers Inc.	Media – New Zealand	<ul style="list-style-type: none"> • Fully endorses and supports the Foundation for Advertising Research submission.
Fonterra Co-Operative Group Limited	Industry – Australia & New Zealand	<ul style="list-style-type: none"> • Supports the conceptual framework whereby claims are classified as nutrition content claims, general level health claims and high level health claims, but also has comment in relation to aspects of the details of this proposed approach (detailed individually below)

Submitter	Group	Comments
Foundation for Advertising Research	Research & Academia – Trans-Tasman	<ul style="list-style-type: none"> • Supports general thrust of PFAR. Believes the proposed rules are sensible and fair, and that the clear definitions will assist the advertising industry. • Commends FSANZ for evidence based, practical, high quality proposed standard.
Goodman Fielder Limited	Industry – Australia & New Zealand	<ul style="list-style-type: none"> • Supports most of the preferred criteria and conditions presented throughout the Proposal. Their specific comments offer further evidence either (a) in support of the changes being proposed or (b) alternative options that should be considered.
MasterFoods Australia New Zealand	Industry – Australia & New Zealand	<ul style="list-style-type: none"> • Endorses the submissions made by the Australian Food and Grocery Council and Confectionery Manufacturers of Australia. • The PFAR proposal has become much too complex and prescriptive in attempting to cover and define ‘every possibility’, accommodate ‘exceptions’ and in so doing it will limit innovations that would bring benefits to consumers. • Notes 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. • Suggests that 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.
New Zealand Television Broadcasters’ Council	Media – New Zealand	<ul style="list-style-type: none"> • Fully supports the submission made by the Foundation for Advertising Research.
Food and Beverage Importers Association Supported by Unilever Australasia	Industry - Australia	<ul style="list-style-type: none"> • Are concerned with the complexity of the proposed standard, e.g. clause 6. • Companies will be confused over what is and is not permitted, with the result that relevant information may not be provided to consumers. • Encourages FSANZ to seek a simplified approach that is consistent with international practice.
Foster’s Group	Industry - Australia	<ul style="list-style-type: none"> • Shares AFGC view that the proposed changes will produce a high degree of complexity for consumers, industry and enforcement agencies. • Consider it questionable whether the proposed changes will place the food industry in a better position than under the current law.
Kellogg (Aust) Pty Ltd	Industry - Australia	<ul style="list-style-type: none"> • Cannot support a Standard that is inconsistent with the Ministerial Councils Policy Guidelines. • Specifically, the proposed Standard reduces access to nutrition and health information about food, thereby reducing consumer’s ability to make informed choices. • The proposed Standard is inconsistent with the Australian Government’s principle of minimum effective regulation, the Ministerial Councils Policy Principles which seek to enable the responsible use of scientifically valid nutrition, health and related claims and FSANZ’s objectives of providing adequate information to enable consumers to make informed food choices.
George Weston Foods Limited	Industry - Australia	<ul style="list-style-type: none"> • Supports the development of a new Standard and guideline(s) for Nutrition, Health and Related Claims (same regulatory option supported at Draft Assessment). • FSANZ should ensure consistency, both within the health claims proposal and across other proposals currently in circulation. Changes should not be over-prescriptive and unnecessarily restrictive for industry.

Submitter	Group	Comments
Mrs. Mac's	Industry – Australia	<ul style="list-style-type: none"> Notes that the food market has become significantly more complex and difficult to operate within when compared to ten or fifteen years ago – due to the diversity of product and the plethora of regulations. Believes it is critical that any regulation or standard setting is based on science, promotes the safety of the industry and does not stifle innovation/growth, Reiterates support for regulatory option 2, contained in submission to the Draft Assessment Report, whereby option 2 proposed in part that nutritional criteria for general level claims would be provided in a guidance document.
The National Heart Foundation of Australia (Anne-Marie Mackintosh)	Public Health – Australia	<ul style="list-style-type: none"> Seeks clarification with respect to symbols or design that may indirectly infer a relationship between a food or a property of a food and a health effect (implied health claims?)
The National Heart Foundation of New Zealand (Anna Malan)	Public Health – New Zealand	
Community and Public Health, Canterbury District Health Board	Public Health – New Zealand	<ul style="list-style-type: none"> Believes that an implied claim is a health claim and is therefore prohibited unless it meets the criteria for a health claim.
Wyeth Aust/NZ	Industry – Trans Tasman	<ul style="list-style-type: none"> Supports a transparent and balanced review of all submissions. Appreciates that Wyeth's March 2006 substantiated paper was publicised on the FSANZ website, but feels it is not apparent that any consideration has been given to matters raised within it. For example, while FSANZ's Preliminary Final Assessment Report addressed some of the issues raised by submitters in relation to Part 2.9 of the Code, none of Wyeth's concerns was addressed in the written report. Are particularly concerned given that Wyeth's submission was heavily substantiated unlike the excerpts of other submissions regarding health claims on infant formulas that FSANZ publicised on its website. Further, FSANZ has not consulted directly with Wyeth or the Infant Formulas Manufacturers Association of Australia. Suggests that a decision on the issue was made in advance of the consultation process.
Meat and Livestock Australia	Industry - Australia	<ul style="list-style-type: none"> Supports Option 2 at Draft Assessment; to develop a new standard and guideline(s) for nutrition, health and related claims.
Meat and Livestock Australia	Industry - Australia	<ul style="list-style-type: none"> Would like to know how long it will take from the time an application is submitted until the claim is able to be used in the market (assuming a submission is successful first time). Would like to know how much it would cost to get an application assessed for pre-market approval.
Coles Supermarkets	Industry – Australia	<ul style="list-style-type: none"> Notes that unpackaged foods for retail sale should be regulated by provisions permitting claims but with nutrition information panel data available on request by the customer. Welcomes the opportunity to further discuss this issue with FSANZ if required.

SUMMARY OF ISSUES THAT WERE NOT CONSIDERED IN THE PRELIMINARY FINAL ASSESSMENT REPORT

22. BIOLOGICALLY ACTIVE SUBSTANCES

Submitter	Group	Comments
AB Food and Beverages Australia Pty Ltd	Industry - Australia	<ul style="list-style-type: none"> • Questions the reasoning behind not allowing descriptors for biologically active substances such as antioxidants. This will inhibit informing consumers the level of benefit provided by a food. • A product containing 10% versus a product containing 90% of the effective daily dose will both only be able to use 'contains'. This places further unnecessary restriction on industry.
Australian Food and Grocery Council (AFGC) Supported by Simplot	Industry - Australia	<ul style="list-style-type: none"> • Recommends that part (a) of the definition for reference food be amended to clarify the intent, to include 'or biologically active substance' after 'the amount of the nutrient' in the current wording.
SA Department of Health	Government - Australia	<ul style="list-style-type: none"> • Notes the Ministerial policy guidelines for the addition of substances other than vitamins and minerals have not been completed. • Unless the scientific evidence for a biologically active substance claim is pre-assessed such as via the Novel Foods assessment process, it is recommended that general level health claims regarding biologically active substances should be treated as high level claims until more information is available.
Coles Supermarkets	Industry – Australia	<ul style="list-style-type: none"> • Notes the inability to make a 'good source' or 'rich' claim does not provide the food industry with incentives to instigate expensive research programs about the efficacy for biologically active substances.
General Mills Australia Pty Ltd and General Mills New Zealand Ltd Cereal Partners Worldwide Nestlé	Industry – Trans Tasman	<ul style="list-style-type: none"> • The definition for biologically active substances has been moved from Standard 1.2.8 and the editorial note that accompanied the definition has been deleted. • Does not agree with the new intended interpretation and recommend the retention of the current editorial note to assist with understanding of these substances. • Comparative claims about biologically active substances should be permitted.

Submitter	Group	Comments
Heinz Australia and Heinz Wattie's (Heinz)	Industry – Trans Tasman	<ul style="list-style-type: none"> • FSANZ needs to explain the effects of ‘not applicable’ when inserted in the descriptor column of the table to clause 11. Clarification is needed as to whether ‘source of’ or ‘contains’ is permitted. • Clause 5(1) (c) <i>the claim does not include any descriptors in relation to the level of the property of the food</i> is confusing when read in relation to Table to Clause 11 where the descriptor for biologically active substances is <i>not applicable</i>. • Recommends that ‘good source claims are permitted. The prohibition limits innovation and produces unfair advantage for therapeutic goods. Also does not take into account that food sources of biologically active substances may be more beneficial than supplements. • Recommends that for nutrition content claims, the food should contain 10% of the biologically active substance, as is required for general level health claims. It may be confusing for consumers that foods carrying nutrition content claims can contain less biologically active substances than those carrying health claims.
Simplot Australia Pty. Ltd.	Industry - Australia	<ul style="list-style-type: none"> • Restricting the ability to use descriptors for biologically active substances will reduce manufacturer’s ability to convey the level of new and emerging substances (phytonutrients) with potential benefits, such as lycopene, in their products. Quick short sharp messages such as ‘<i>rich in lycopene</i>’ supported with a general level health claim statement such as ‘<i>Tomato paste is one of the richest natural sources of lycopene. Lycopene is a powerful antioxidant that gives the red colour to tomatoes used in tomato paste</i>’ would not be permitted.
Choice – Australia	Consumer - Australia	<ul style="list-style-type: none"> • PFAR fails to address previous concerns expressed by CHOICE about claims on the presence of biologically active substances. • FSANZ approach to permit content claims only but allow manufacturers to determine an effective amount is likely to mislead consumers. • Biologically actives substances are not essential for optimal health, and are not present in a wide range of substances consumed over the course of the day. • Unlikely that consumer would consume enough for a health benefit if present at 10% level. • Content claims for biologically active substances will imply a health benefit. • Concerned that some biologically active substances such as non-culinary herbs can be unsafe for certain consumers, so if manufacturers add too much it may be harmful. • CHOICE study (CHOICE Magazine Dec 2004) of herbal supplements added to juice bar products found many contained insufficient amounts to have the effect stated or implied in the name of the product or in marketing material. Also reported that some herbal supplements were unsafe for some population groups • Acknowledges the difficulty in establishing a safe and efficacious level of some biologically active substances but current proposal does not provide adequate protection for consumers – from being misled about health benefit or from consuming unsafe amounts. • Acknowledges that policy guidelines on addition of substances other than vitamins/minerals are underway. Believes it is difficult to regulate all these substances in the same way • Proposes that until policy guidance has been developed and/or safety and appropriate levels of consumption have been established for individual biologically active substances, claims about biologically active substances should be treated as high level claims or prohibited.

Submitter	Group	Comments
George Weston Foods Limited	Industry - Australia	<ul style="list-style-type: none"> Note that under Table to clause 11, a descriptor for biologically active substances is 'not applicable'. Question the reasoning behind this decision, in relation to biologically active substances such as antioxidants. This will inhibit industry from communicating to consumers the level of benefit provided by a food product. In the case of antioxidants, a product that contains 10% versus a product that contains 90% of the effective daily dose will both only be able to use a 'contains' statement. This will require significant rewording of claims (and therefore packaging changes) without a seemingly valid explanation. Believes that this is placing further unnecessary restrictions on industry and recommends that descriptors be allowed, provided industry holds substantiation.
New South Wales Food Authority	Government - Australia	<ul style="list-style-type: none"> Considers that 10% of the recommended amount per serve may be too low to be useful for foods containing biologically active substances. Some biologically active substances are not widely available in the food supply and an individual may need to consume an unrealistically large number of serves of a food to achieve the claimed health benefit.
NSW Centre for Public Health Nutrition (Dr Vicki Flood)	Public Health Australia	<ul style="list-style-type: none"> Has previously raised concerns regarding the approach in regulating this general level health claim. Comments that two issues for concern in relation to biologically active substances are: <ol style="list-style-type: none"> The current approach proposed by FSANZ requires only the manufacturer to have records to substantiate the recommended amount to achieve the health effect claimed. Believes such information presented by manufacturers may be incomplete or not based on an appropriate level of research. Recommends that the substantiating evidence to be reviewed by appropriate independent reviewers, and ideally, be published in peer-reviewed journals, before it to be considered valid. In addition, detailed information about the research, e.g. where the research was conducted, should be disclosed to the public. Believes FSANZ should play an active role in the determination of the quality and quantity of substantiating evidence supplied. a per serve approach allows manufacturers to manipulate the serving size to meet the 10% requirement. Concerned that 10% of the recommended amount may be too low to be useful because some biologically active substances are not widely available in our food supply.
South Australia Department of Health	Government - Australia	<ul style="list-style-type: none"> Notes that at presented the Ministerial policy guidelines for the addition of substances other than vitamins and minerals have not yet been completed. Unless the scientific evidence for a biologically active substance claim is pre-assessed such as via the Novel Foods assessment process, it is recommended that general level health claims regarding biologically active substances should be treated as high level claims until more information is available regarding recommended intakes and links to health effects.
The Public Health Association of Australia (Kemmett)	Public Health - Australia	<ul style="list-style-type: none"> Suggests FSANZ review the provisions around biologically active substances. Strong concerns about the proposed regulation of claims around biologically active substances. The three main issues of concern are that: <ul style="list-style-type: none"> Food manufacturers may be able to set the levels for what is an effective daily amount Claims for biologically active substances are based on the food containing a minimum of 10 percent of the manufacturer nominated amount There are no disqualifying criteria for nutrition content claims related to biologically active substances.

Submitter	Group	Comments
		<ul style="list-style-type: none"> • Comments that it is particularly concerning that food manufacturers may be able to set the levels for what is an effective daily amount. Although content claims for biologically active substances would only be ‘source of’ type claims, believes there is a high risk of misleading consumers. For example tinned tomatoes could be labelled as a source of lycopenes or ‘this food contains lycopenes’. Certain groups of the population, such as men with prostate cancer, could be misled into attributing a health benefit to such a claim. • Comments: ‘FSANZ has stated that claims involving biologically active substances must state the amount of the substance that provides the health effect. This is a concern as for many biologically active substances there is no evidence for what is an effective level for achieving a health effect. The current proposal even states that the food manufacturers themselves can determine the effective level’. • Recommends that FSANZ should substantiate what is an effective level of the biologically active substances, rather than food manufacturers. Understand the difficulty of setting a reference value when none exists (or in the case of wholegrains has been rejected), but believes it cannot be up to the food industry to determine the substantiated amount that is required to be consumed each day in order to achieve any specific health effect. • Comments: ‘most consumers are unlikely to regularly consume foods containing biologically active substances. Allowing manufacturers to establish appropriate amounts and then make a claim on a product that contains as little as 10 percent of that efficacious amount may result in consumers never eating or drinking enough of that substance to have the effect claimed or implied on the label or in advertising’. • Recommends that FSANZ undertake some dietary modelling to assess what is an efficacious level for biologically active substances to be achieved in the diet. • Suggests that there should be generic disqualifying criteria applied to any nutrition content claims related to biologically active substances and wholegrains, i.e. foods high in saturated fat, added sugar or sodium, not just general level claims.
Australian Self medication Industry	Therapeutic - Australia	<ul style="list-style-type: none"> • Considers the PFAR discussion has failed to link a particular health claim using a functional substance (i.e. non culinary herbs) and the levels required in order to support a particular health claim as per the evidence. Considers it critical that consumers are aware that the particular ingredient will also need to be taken, either through other dietary sources or from supplements, in order to achieve the claimed health benefit.

23. CAUSE-RELATED MARKETING

Submitter	Group	Comments
The National Heart Foundation of Australia (Anne-Marie Mackintosh)	Public Health - Australia	<ul style="list-style-type: none"> • Comments that cause-related marketing of foods, when linked to a health charity organisation, could imply a relationship between the product and a disease or physiological condition. • Considers that cause-related marketing strategies on packaging – including, but not restricted to, the donation of a proportion of money from the sale of a product - should be prohibited. • Do not consider that a disclaiming statement will lessen consumer confusion and believe that food marketers will utilise cause-related marketing statements to avoid the pre-approval process for health claims. Believes it may also result in cause-related marketing strategies on products that do not promote healthier eating patterns. • Comments: ‘allowing for cause-related marketing on packaging potentially allows a product to carry a pre-approved health claim and a cause-related marketing statement and a disclaimer. We believe consumers could be very confused and lose confidence in the integrity of the nutrition message’. • Comments: ‘however, cause-related marketing strategies can be as diverse as sponsorship of a fundraising or health awareness event/activity, monetary support for the health organisations’ health programs, services and literature through to financial support to disseminate health information and donation requests’. • Supports food companies’ sponsorship of activities and events conducted by health charities under the following conditions: <ul style="list-style-type: none"> – no mention of the support on packaging, – promotion of the event/activity clearly communicates that the sponsorship or partnership does not imply any endorsement of the food company’s product(s), – the health organisation applies some criteria (such as consistency with Dietary Guidelines) to the food products it permits to sponsor events/activities to ensure healthier food choices are promoted, – communications about the sponsorship relates to the specific activity/event, not the health organisation as a whole. • Believes these requirements should apply to all health organisations regardless of whether there is a disease state, or the name of an organ, in the organisation’s name. Comments that this would ensure that all health charities are dealt with equitably. • Believes that the regulations should also consider the issue of ‘fairness’ for all charities – that is, that health charities are not disadvantaged in relation to non-health charities by the new regulations.

24. DEFINITIONS

Submitter	Group	Comments
Australian Food and Grocery Council (AFGC) Supported by Simplot	Industry - Australia	<ul style="list-style-type: none"> • FSANZ is yet to indicate its preferred approach with respect to the definitions of ‘function claim’, ‘risk reduction claim (non-serious disease)’, ‘biomarker maintenance claim’, and ‘risk reduction claim (serious disease)’. . • AFGC reserves the right to comment on these definitions until FSANZ reveal its preferred approach.

Submitter	Group	Comments
Fonterra Co-Operative Group Limited	Industry – Australia & New Zealand	<ul style="list-style-type: none"> • Agrees with the proposed draft changes subject to comments and changes outlined in their submission. • Notes that FSANZ is yet to indicate their preferred working of the following definitions, and would welcome opportunity to comment on FSANZ’s preferred approach. <ul style="list-style-type: none"> – Function claims – Risk reduction claim – non serious disease – Risk reduction claims – serious disease – Biomarker claims
New South Wales Food Authority	Government - Australia	<ul style="list-style-type: none"> • The definition refers to ‘measurable biological parameter’, ‘abnormal’, and ‘predictive’, without providing detail on the capture of these words. This may lead to considerable debate on boundaries in an enforcement situation. • Prefers greater clarity is provided in the definition so its intent is clearer.
New South Wales Food Authority	Government - Australia	<ul style="list-style-type: none"> • The definition includes the term ‘not appropriate’. Further detail is required on the capture of these words to correctly interpret this definition.
South Australia Department of Health	Government - Australia	<ul style="list-style-type: none"> • Strongly recommends that a definition for therapeutic is included. The lack of a definition has been a major difficulty in enforcing the transitional health claims standard, resulting in differing interpretations from different enforcement bodies. • Reverting to the use of the definition in the TG Act is unhelpful since this definition is for ‘therapeutic use’ and is meant to address the use of medications, not food. • If no definition is included in the Standard, the current inconsistency of interpretation problems will be perpetuated.
Murray Goulburn Co-operative	Industry – Australia	<ul style="list-style-type: none"> • Recommends that performance claims relating to sports foods as per Standard 2.9.4 should not be covered by the new Standard, as proposed by the current definition of health effect: (b) <i>A measure of the impact on the health or performance of a specific population, where the impact is associated with a particular dietary intake; and for the purposes of this definition, ‘impact’ includes maintenance</i> • Recommend that the words ‘or performance’ be removed. • Claims relating to maintenance or improvement of physical performance in a sport-related context are not health claims as they do not relate to the health of the individual but rather the effect on their athletic or sporting performance. • Performance claims should be permitted providing they are substantiated on foods and beverages regulated under Standard 2.9.4 and meet Trade Practices regulations for not being false or misleading.
New South Wales Food Authority	Government - Australia	<ul style="list-style-type: none"> • Requests that the definition of ‘supplier’ as it relates to the holding of evidence for the substantiation of health claims allows NSW enforcement officers the power to obtain information from premises outside the physical boundaries of NSW. Currently the visitation powers of enforcement officers under the <i>NSW Food Act 2003</i> are limited to the physical boundaries of NSW. • Notes that these issues concerning the definition of ‘supplier’ were initially brought to FSANZ’s attention at Draft Assessment.

25. DIETARY INTERACTION CLAIMS

Submitter	Group	Comments
Meat and Livestock Australia	Industry - Australia	<ul style="list-style-type: none"> Supports the use of such claims but believes that a whole meal approach should be considered. The claims need to be based on sound scientific evidence and at this stage bioavailability research needs to be taken into account (<i>provides example of phytates in relation to an 'iron/vitamin C' dietary interaction claim</i>).

26. EDUCATION

Submitter	Group	Comments
Choice – Australia	Consumer - Australia	<ul style="list-style-type: none"> Considers FSANZ must ensure there is adequate education for manufacturers, advertisers, consumers and health professionals about new standard led by Commonwealth department/agency Watchdog could be given role in leading education Education should encompass healthy eating, interpretation of labels, understanding of claims Education campaign should include dissemination of educational materials through supermarkets, education of health professionals, website material, reach consumers in lower socio-economic areas and specify complaints process Industry should contribute funding for education
Consumers' Institute of New Zealand Incorporated (Belinda Allan)	Consumers – New Zealand	<ul style="list-style-type: none"> States that FSANZ needs to ensure there is an adequate education campaign targeting both consumers and health professionals about the changes to nutrition and health claims and the complaints process. Believes any education campaign must have adequate funding and be far-reaching. It should reinforce key messages within the Ministry of Health Healthy Eating Guidelines and improve consumer understanding about how to interpret food labels. States that at a minimum, fact sheets and posters could be disseminated throughout supermarkets and other stores. Believes website materials will not be sufficient, especially in targeting consumers from lower socioeconomic groups. Believes the food industry should be called on to contribute funding to help carry out an education campaign. The education campaign must also make the public aware of the complaints process.
The Cancer Council Australia (Kathy Chapman, Sarah Mackay, Terry Slevin) Supported by the Cancer Council Western Australia	Public Health - Australia	<ul style="list-style-type: none"> Does not believe that the communication strategy will be comprehensive and far reaching enough to inform members of the community of the new standard, and would suggest more resources are committed to communicating the changes. Comments that the development of website materials and associated resources by FSANZ will not be sufficient unless there is also a coordinated education program, which would need to occur at the point of sale, but the up take of the material may be limited depending on the commitment of jurisdictional partners, industry (including retail) and consumer groups. Suggests that the food industry contribute to funding such an education program, as part of the privilege of being able to make nutrition and health claims.

Submitter	Group	Comments
		<ul style="list-style-type: none"> Comments that the agency given responsibility for developing and delivering the program should have expertise in mass communication in the health field and not be influenced by the food industry. Notes that it must be ensured that consumers are aware of the complaints processes.
The Cancer Council Western Australia (Terry Slevin)	Public Health - Australia	<ul style="list-style-type: none"> Recommends that more resources are committed to communicating the changes relating to health claims on food, as believe the use of the FSANZ website alone will be insufficient. Suggests the education program needs to: <ol style="list-style-type: none"> 1. Reinforce key messages within the Australian Dietary Guidelines; 2. Improve consumer understanding about how to interpret food labels; 3. Address consumer understanding of nutrition and health claims; and 4. Ensure that the public are aware of the complaints processes.
The National Heart Foundation of Australia (Anne-Marie Mackintosh)	Public Health – Australia	<ul style="list-style-type: none"> Recommends an adequate education campaign to reinforce key messages of national nutrition guidelines and improve consumer and food manufacturers understanding of food labels in general, and nutrition and health claims.
The National Heart Foundation of New Zealand (Anna Malan)	Public Health – New Zealand	
The Public Health Association of Australia (Kemmett)	Public Health - Australia	<ul style="list-style-type: none"> Believes that the communication strategy is not sufficiently comprehensive to inform the public about the new standard, and would suggest more resources are committed to communicating the changes. Believes that the education program needs to reinforce key messages within the Dietary Guidelines, improve consumer understanding about how to interpret food labels, as well as address consumer understanding of nutrition and health claims.

27. ENFORCEMENT

Submitter	Group	Comments
Association of New Zealand Advertisers Inc.	Media – New Zealand	<ul style="list-style-type: none"> Suggests ANZA and the Advertising Standards Complaints Board could implement pre-approval of high level claims. Notes that ANZA already offers pre-vetting of all liquor and Therapeutics advertising – using an independent, user-pays system.
New South Wales Food Authority	Government - Australia	<ul style="list-style-type: none"> Requests that the definition of ‘supplier’ as it relates to the holding of evidence for the substantiation of health claims allows NSW enforcement officers the power to obtain information from premises outside the physical boundaries of NSW. Currently the visitation powers of enforcement officers under the <i>NSW Food Act 2003</i> are limited to the physical boundaries of NSW. Notes that these issues concerning the definition of ‘supplier’ were initially brought to FSANZ’s attention at Draft Assessment.

Submitter	Group	Comments
Community and Public Health, Canterbury District Health Board	Public Health – New Zealand	<ul style="list-style-type: none"> • The range and amount of claims and leeway industry has to make claims, makes enforcement difficult. • Substantiation of general level health claims needs to be assessed by a technical body and not by the enforcement body. Alternatively the claim needs to be pre-approved. • Enforcement bodies may have varying levels of resource or expertise to assess the substantiation evidence. • Concerned that general level claims may blur the lines between food and therapeutic goods and pre-approval of claims would prevent this. • Comments made at Draft Assessment regarding funding of the Watchdog Body have not been addressed in this Report. Would welcome the opportunity to comment on the outcome of this.
SA Department of Health	Government - Australia	<ul style="list-style-type: none"> • Enforcement will be difficult, time consuming and costly, especially that of general level claims. • The new standard must be very clearly defined and claims with an uncertain evidence base assessed prior to use by industry. • Strong guidelines to assist enforcement bodies in the assessment of the level of evidence held by industry are needed. More clarification regarding the guideline document is needed.
New South Wales Food Authority	Government - Australia	<ul style="list-style-type: none"> • Strongly objects to the statement that function claims are not prohibited under the current health claims standard. NSW interprets function claims as health claims, and as not expressly permitted by Standard 1.1A.2, are prohibited.
South Australia Department of Health	Government - Australia	<ul style="list-style-type: none"> • Considers enforcement of health claims will be very difficult, time consuming and costly to enforcement bodies, especially in regards to general level claims. Consistency of enforcement is currently a major problem under the Transitional Health Claims Standard. A large part of the problem lies in interpretation of the Standard. • Considers that it is imperative that the new Standard is very clearly defined and that claims with an uncertain evidence base are assess prior to use by industry. More clarification is still required in the guideline document. • A 24-month transition period will also result in significant enforcement difficulties for jurisdictions. Because Nutrition, Health and Related claims will not be mandatory, but will be made voluntarily by industry, it recommends and supports a 12-month transition period.
Choice – Australia	Consumer - Australia	<ul style="list-style-type: none"> • Concerned the proposed enforcement system for new standard will not be sufficient to deter manufacturers from intentionally breaching the standard. • Strict enforcement to protect consumers from misleading claims is vital • Proposed approach is primarily complaints based but a proactive approach is needed at Commonwealth level. Health claims watchdog is nothing more than a secretariat and has no enforcement powers • Under current proposal, enforcement and compliance are likely to vary depending on capacity of individual jurisdictions. Also no commitment to give enforcement agencies additional funding • Timeliness of enforcement action is problematic – need immediate action with respect to advertising that contravenes the standard • Supports implementation of similar system to that used to enforce the Therapeutic Goods Advertising Code – Commonwealth based, funded by industry levy, substantial penalties. Public register of complaints would help. • Suggests watchdog must be the public face of enforcement regardless of where company is based and given powers for monitoring/enforcement.

Submitter	Group	Comments
Private (Jack Ward)	Consumer - Australia	<ul style="list-style-type: none"> Comments that it is unlikely that in Victoria, that local government will be willing or able to enforce so it could be an option to have enforcement via ACCC which only has to prove on the balance of probability.
Consumers' Institute of New Zealand Incorporated (Belinda Allan)	Consumers – New Zealand	<ul style="list-style-type: none"> Concerned that enforcement of the new standard will not be sufficient to deter food manufacturers from breaching the standard so will not adequately protect consumers from misleading claims and advertisements. States that appropriate penalties, such as fines and retraction of labelling must be significant. Comments that for public health and consumer groups who oppose health claims, strict enforcement is seen as the only concession for allowing the food industry to use health claims to market foods. Believes the complaints procedure must be publicly accessible so it is easy for consumers to make a complaint. However, a complaints process alone won't be sufficient to protect consumers from misleading claims. Believes most consumers will not have the capacity to identify a claim that is potentially misleading, incorrect or unsubstantiated. There must be pro- active monitoring by the watch dog in addition to the complaints process. States that sufficient funding must be allocated for monitoring compliance otherwise they believe this system will lack sufficient authority to achieve its goal.
New Zealand Ministry of Health (Cynthia Maling)	Government – New Zealand	<ul style="list-style-type: none"> Comments that there is little information on how Standard 1.2.7 will be monitored and enforced, particularly in relation to advertising. Believes Standard 1.2.7 as proposed in the PFAR will be almost impossible to enforce due to the high number of foods eligible to carry a nutrient and health claim, and because the level of evidence (e.g., probable) required to support health claims is subject to interpretation and distortion by industry. Does not see how enforcement agencies will have sufficient time or budget to monitor and enforce Standard 1.2.7, and no consideration seems to have been given to funding this additional work. States that the onus seems to be on the enforcer to disprove compliance, whereas the onus should be on industry to provide evidence of compliance to the enforcer, if required.
The Cancer Council Australia (Kathy Chapman, Sarah Mackay, Terry Slevin) Supported by the Cancer Council Western Australia	Public Health - Australia	<ul style="list-style-type: none"> Does not feel that the issue of compliance, monitoring and enforcement has been adequately addresses in the Preliminary Final Assessment Report. Concerned that the level of enforcement of the new standard – both the amount of enforcement activity and the level of the applicable sanctions – will not be sufficient to deter food manufacturers from breaching the standard and therefore will not adequately protect consumers from misleading claims and advertisements. Comments that the proposed approach is primarily complaints based, urges that there should be greater proactive compliance monitoring and enforcement at all levels, including the Commonwealth level. States that compliance and enforcement are likely to vary depending on the capacity of the individual state jurisdictions, placing greater burden on the states where most manufacturers are based (NSW and VIC). Believes that the level of monitoring and enforcement will vary between jurisdictions based on the willingness and capacity of these agencies to take action. Suggests an enforcement system similar to the Therapeutic Goods Administration, which is a Commonwealth-led approach. Suggest this be funded through an industry levy and include appropriate financial penalties and a range of remedial actions, such as corrective advertising and adverse publicity measures, which will both be a more effective deterrent against misleading practices and allow for any misinformation to be corrected.

Submitter	Group	Comments
		<ul style="list-style-type: none"> States another key element of a successful enforcement system is a publicly accessible complaints procedure that makes it easy for the general public to know who to complain to and how to make a complaint. Comments: ‘another problem with the proposed approach is the timeliness of enforcement action. If an advertising campaign contravenes the health claims standard, the campaign could be over by the time enforcement action is completed. In this case the marketing objective of the campaign would have been achieved, yet the message sent to consumers may be misleading. Those enforcing the standard must have the capacity to stop an advertising campaign immediately’.
The New Zealand Food Safety Authority (Carole Inkster)	Government - New Zealand	<ul style="list-style-type: none"> States that NZFSA has raised the inherent problems with enforcement of average values in the nutrition information panel in prior submissions. Believes the Proposal at this point exacerbates an already difficult and potentially unenforceable part of the Nutrition Information Panel standard. Indicates a strong desire to see this critically reviewed in FSANZ’s upcoming general review of Nutrition Information Panels.
Foundation for Advertising Research	Research & Academia – Trans-Tasman	<ul style="list-style-type: none"> Envisages that the proposed standard will assist the independent enforcement bodies Advertising Standards Board (Australia – which enforces the code of the Australian Association of National Advertisers) and the Advertising Standards Complaints Board (New Zealand – which enforces the code of the Advertising Standards Authority) in their roles. Notes that in New Zealand it is proposed that high level health claims are pre-vetted before publication or broadcast.
Goodman Fielder Limited	Industry – Australia & New Zealand	<ul style="list-style-type: none"> Has had discussions with a number of state jurisdictions regarding enforcement and interpretation of the standard, and believes there is a need for clarification of which is an implied claim (in the definition of ‘claim’). Note that the level of interpretation around implied is extensive and needs clarification in the user guide.
New Zealand Dietetic Association (Jan Milne)	Public Health – New Zealand	<ul style="list-style-type: none"> Believes that sufficient funding is required for the proactive surveillance of health claims, as it appears that enforcement will be even more difficult with this new proposed model (i.e. nutrient profile model).
The Cancer Council Western Australia (Terry Slevin)	Public Health - Australia	<ul style="list-style-type: none"> Does not feel that the important issue of compliance, monitoring and enforcement has been adequately addressed. Has concerns that the level of enforcement of the new standard will not be sufficient to deter food manufacturers from breaching the standard. Recommends an enforcement system similar to the Therapeutic Goods Administration, which includes appropriate financial penalties and a range of remedial actions. Believes there is a need for publicly accessible complaints procedure which makes it easy for the general public to know who to complain to and how to make a complaint. Believes those enforcing the standard must have the capacity to stop an advertising campaign immediately.
The National Heart Foundation of New Zealand (Anna Malan)	Public Health – New Zealand	<ul style="list-style-type: none"> Raises concern as to how foods which make health claims will be policed to ensure that they are used appropriately as spot checks in supermarkets and other retail/food service outlets will be difficult. Believes the inclusion of percentage of fruit and vegetables, nuts or legume ingredients be expressed and calculated, and dietary fibre and calcium content of cheese be specified in the NIP will partly assist. States that this type of information would be useful to include in the user guide that accompanies the new standard.

Submitter	Group	Comments
The Public Health Association of Australia (Kemmett)	Public Health - Australia	<ul style="list-style-type: none"> Does not believe that the important issue of compliance, monitoring and enforcement has been adequately addressed in the Preliminary Final Assessment Report to deter food manufacturers from breaching the standard and therefore will not adequately protect consumers from misleading claims and advertisements. Comments that the proposed approach is primarily complaints based, but urges that there should be greater proactive compliance monitoring and enforcement at all levels, including the Commonwealth level.
Unilever Australasia	Industry – Trans Tasman	<ul style="list-style-type: none"> Certainly do not think that the draft Standards are proposing a workable way forward. Does not support the interpretation of the policy into an all encompassing scope and prohibitive nature of the current draft standard. The wording of the draft standard and the revised definition of ‘claim’ and introduced definitions such as ‘property of the food’ now mean any statement that makes reference to a food or property of a food (nutrient, ingredient or any other feature) becomes a claim and cannot be made unless specifically permitted, e.g. This is a food. A food is eaten to provide nutrition. As the Standard proposes to regulate every statement made about a food, the scope results in an enormous burden for enforcement. This will not be sustainable and will require enforcement to make decisions about what areas will be enforced and what won't. Is disappointed to see that the clear structure and framework consulted on in earlier rounds has been lost in a maze of complexity and detail.
New South Wales Food Authority	Government - Australia	<ul style="list-style-type: none"> Uncertain that the current drafting of the NSW <i>Food Act 2003</i>, by being based on the Model Food Act, empowers NSW enforcement officers with the ability to request information for the substantiation of health claims. Annex B, Section 9 (1) (b) of the <i>Model Food Act</i> allows enforcement officers the power to visit food businesses on matters relating only to the sale and handling of foods. It is arguable whether a request to obtain substantiation documents for health claims is covered by current arrangements.

28. HIGH LEVEL HEALTH CLAIMS

28.1 Saturated fatty acids and LDL cholesterol high level health claim

Submitter	Group	Comments
New Zealand Ministry of Health (Cynthia Maling)	Government – New Zealand	<ul style="list-style-type: none"> Comments that statements that include mention of other lifestyle factors that influence LDL cholesterol, such as body weight and physical activity would add to the overall message and provide context. No target population group is specified, yet lowering LDL cholesterol may not be appropriate for all groups.

Submitter	Group	Comments
The Omega-3 Centre (Wendy Morgan)	Public Health – Australia and New Zealand	<ul style="list-style-type: none"> • Recommends that high level health claims which use the conditions for a nutrition content claim for low saturated fats are modified to: <ul style="list-style-type: none"> (a) <i>the food contains</i> (i) <i>as a proportion of the total fatty acids content, no more than 28% saturated fatty acids and trans fatty acids; or</i> (ii) <i>no more saturated fatty acids and trans fatty acids than 0.75 g per 100 g for liquid food; or</i> (iii) <i>no more saturated fatty acids and trans fatty acids than 1.5 g per 100 g for solid food.</i> • Comment: ‘in the preliminary final assessment report for P293 the above will then apply to the claims in Table to Clause 7 for Saturated fatty acids and LDL cholesterol and Saturated and trans fatty acids and LDL cholesterol’.
The New Zealand Nutrition Foundation (Kelsey Woodcock)	Public Health – New Zealand	<ul style="list-style-type: none"> • Highlights the fact that the fatty acid balance is more critical than the amount of fat in the diet. • Believes that the excessive emphasis on fats poses the risk of insufficient energy intake in high risk groups, in particular the elderly, which is currently being reported in some populations. • Recommends that foods rich in saturated fats should have a recommendation to be consumed in foods that also contain polyunsaturated and monounsaturated fatty acids.

28.2 Sodium and blood pressure high level health claim

Submitter	Group	Comments
New Zealand Ministry of Health (Cynthia Maling)	Government – New Zealand	<ul style="list-style-type: none"> • Comments that statements that include mention of other dietary and lifestyle factors that influence blood pressure (e.g., intakes of vegetables and fruit, potassium, and alcohol, as well as body weight and physical activity) would add to the overall message being conveyed and provide some context. No target population group is specified, yet lowering blood pressure may not be appropriate for all groups.

28.3 Folic Acid and neural tube defects high level health claim

Submitter	Group	Comments
Heinz Australia and Heinz Wattie’s (Heinz)	Industry – Trans Tasman	<ul style="list-style-type: none"> • The exclusion for the high level health claim relating to folic acid on foods regulated by Standard 2.9.3 needs to be deleted. Pregnant women are encouraged to increase their folic acid intake and drinks made under Standard 2.9.3, such as Complian, are formulated to meet the needs to pregnant women and contain added folate. The proposed exclusion gives unfair advantage to therapeutic goods and dietary supplements.

28.4 General comments

Submitter	Group	Comments
Meat and Livestock Australia	Industry - Australia	<ul style="list-style-type: none"> • Believes there needs to be scope for the approval of new biomarkers as the science evolves.

Submitter	Group	Comments
Foundation for Advertising Research	Research & Academia – Trans-Tasman	<ul style="list-style-type: none"> • Understands why FSANZ has taken a conservative approach towards permitting high level health claims such as those in relation to fruits, vegetables and cancer. • Suggests that after implementation of Standard 1.2.7 FSANZ implements a more liberal interpretation that would be consistent with evidence and views of international and national health authorities.
Foundation for Advertising Research	Research & Academia – Trans-Tasman	<ul style="list-style-type: none"> • Recommends that after implementation of Standard 1.2.7 FSANZ consults with the advertising industry to devise permitted claims for fruits, vegetables and/or grains that have appeal to children and teenagers.

29. MONITORING AND REVIEW

Submitter	Group	Comments
South Australia Department of Health	Government - Australia	<ul style="list-style-type: none"> • Notes the Policy Guideline for Health and Related Claims recommends a 2-year review from implementation of the Standard. • In addition to this, recommends a further review be undertaken 4 years from implementation to fully assess the impact of the new Standard (given that there will be a 24-month transition period). • It is recommended that there be a clear process for reviewing evidence around pre-approved high level claims at periodic intervals (e.g. 5 years)
General Mills Australia Pty Ltd and General Mills New Zealand Ltd Cereal Partners Worldwide	Industry – Trans Tasman	<ul style="list-style-type: none"> • Does not consider another labelling review should be undertaken. • An extensive review was undertaken in the late 1990's with consequent changes to labelling standards, meaning that massive changes had to be made. Not effective governance if food labels were to undergo significant changes every 10 years. • A review of the understanding of consumers in relation to the elements of labelling is more appropriate with a view to providing further education.
Department of Human Services - Victoria	Government - Australia	<ul style="list-style-type: none"> • Considers monitoring of the new standard must be nationally agreed and resourced. Provisions should be included for regular review of measures to ensure that the system really does achieve the dual objectives for industry development and public health and protection. • Asks that this issue be considered in the Final Assessment Report. In particular, the question of how consumers understand the different levels of claims, including endorsements, must be understood in order to ensure that the standard continues to provide the right framework for enabling industry innovation and protecting and improving the health of the community.

30. NUTRITION CONTENT CLAIMS

30.1 Carbohydrate claims

Submitter	Group	Comments
<p>Confectionery Manufacturers of Australasia (CMA) Limited</p> <p>Supported by CMA New South Wales, CMA Victorian Branch, CMA Queensland Branch and CMA South Australian Branch, CMA NZ Branch, International Confectionery Association</p>	<p>Industry – Trans Tasman</p>	<ul style="list-style-type: none"> • Advocates development of criteria in order to provide consistency for the use of carbohydrate claims. • A limited analysis of the existing local market place demonstrates a range of claims with varying carbohydrate content. This provides evidence that regulation is required and fair trading is not currently effective. • Supports regulation of nutrition content claims within the Standard. • Other claims should be included in the Standard including free and carbohydrate.
<p>Choice - Australia</p>	<p>Consumer - Australia</p>	<ul style="list-style-type: none"> • As discussed in submission to DAR, CHOICE study (CHOICE Magazine Aug 2005) found that some ‘low carb’ foods was only marginally lower in energy compared with regular counterparts, were often more expensive and little evidence that low carbohydrate foods were healthier options • Consumers need protection from misleading ‘low carb’ claims • Canada has regulated products with ‘low carb’ claims to have 10% or less available carbohydrate or 2g or less of available carbohydrate per serve. CHOICE supports this approach. • Without guidance from FSANZ it will be difficult for ACCC to determine when a ‘low carb’ claim is misleading • Suggests FSANZ should define and regulate ‘low carb’ claims for informed consumer choice.
<p>Department of Health and Human Services - Tasmania</p>	<p>Government - Australia</p>	<ul style="list-style-type: none"> • As carbohydrate claims currently exist on the market (e.g. Carlton UB Pure Blonde – ‘Low Carbohydrate’ beer, Unilever’s Carb options, and Nestlé’s Carb Smart ranges), criteria for nutrition content claims for carbohydrate should be included in the Standard. • This is inconsistent with the other content claims for which regulation is being proposed. The suggestion that low carbohydrate claims should be left to Fair Trade legislation to regulate is fraught for regulators. There are no defined levels for low carbohydrate so companies will be able to label any quantity of carbohydrate as ‘low’, and given there is no definition; regulation under Fair Trading will be very difficult. If FSANZ cannot derive a definition these claims should be prohibited. • Reduced carbohydrate claims should be allowed and based on the definition of 25% less than the reference food.

Submitter	Group	Comments
Department of Human Services - Victoria	Government - Australia	<ul style="list-style-type: none"> • As carbohydrate claims currently exist on the market (e.g. Carlton UB Pure Blonde – ‘Low Carbohydrate’ beer, Unilever’s Carb Options, and Nestlé’s Carb Smart ranges), it is not appropriate for FSANZ to stay silent. This is inconsistent with the other content claims for which regulation is being proposed. The reasoning provided is that there are no defined levels for ‘low carbohydrate’, and that these claims should be left to Fair Trade legislation to regulate. Companies will be able to label any quantity of carbohydrate as ‘low’, and given there is no definition, regulation under Fair Trading will be very difficult. If FSANZ cannot derive a definition, it cannot be expected that food manufacturers or the ACCC will be able to. • In effect ‘low carbohydrate’ claims will be meaningless and misleading. Victoria believes that a definition must be specified for ‘low’ carbohydrate. FSANZ ought to apply the same principles as it proposes for use of the term ‘low’ in relation to other nutrients. • ‘Reduced’ carbohydrate claims should be allowed and based on the definition of 25% less than the reference food.
Dietitians Association of Australia (Ms Kate Poyner)	Public Health - Australia	<ul style="list-style-type: none"> • Believes that regulations for claims about the carbohydrate (including sugars, starches and wholegrains) content of foods and beverages are under-represented in the draft Standard 1.2.7. • Comments that claims about the carbohydrate content of Australian beers discussed under section 3.2.3 clearly illustrate how consumers are currently being misled as a result of the lack of regulatory guidance on this issue. • States that by international standards, Australians do not have a high carbohydrate intake, yet our dietary guidelines indirectly promote a high carbohydrate diet by encouraging consumption of more bread, cereals, legumes, fruits, vegetables and low fat dairy products. • Believes clear guidelines about what constitutes a high-carbohydrate food/beverage, and a low-carbohydrate food/beverage, is needed to prevent consumers from being misled.
Glycemic Index Symbol Program (Alan Barclay)	Public Health - Australia	<ul style="list-style-type: none"> • Believes that regulations for claims about the carbohydrate (including sugars, starches and wholegrains) content of foods and beverages are under-represented in the draft Standard 1.2.7. • Comments that claims about the carbohydrate content of Australian beers discussed under section 3.2.3 clearly illustrate how consumers are currently being misled as a result of the lack of regulatory guidance on this issue. • States that by international standards, Australians do not have a high carbohydrate intake, yet our dietary guidelines indirectly promote a high carbohydrate diet by encouraging consumption of more bread, cereals, legumes, fruits, vegetables and low fat dairy products. • Believes clear guidelines about what constitutes a high-carbohydrate food/beverage, and a low-carbohydrate food/beverage, is needed to prevent consumers from being misled.
The National Heart Foundation of Australia (Anne-Marie Mackintosh)	Public Health - Australia	<ul style="list-style-type: none"> • Believes it is important that since carbohydrate is mandatory to be listed in nutrition information panels, as total and sugars, those conditions for content claims for total carbohydrate be defined and permitted. • Comments that defining commonly consumed foods that are ‘sources’ and ‘good sources’ of carbohydrate is a key nutrition message used by health professionals and promoted by national nutrition guidelines.

30.2 Cholesterol claims

Submitter	Group	Comments
Australian Egg Corporation Limited	Industry - Australia	<ul style="list-style-type: none"> Cholesterol claims should be prohibited due to public confusion regarding impact of dietary cholesterol.
SA Department of Health	Government - Australia	<ul style="list-style-type: none"> Cholesterol claims should be prohibited due to public confusion regarding impact of dietary cholesterol.
ADECRON Food Tech Consulting	Industry – New Zealand	<ul style="list-style-type: none"> If ‘free’ is now removed, shouldn’t there be a prohibition for that claim?
Department of Health and Human Services - Tasmania	Government - Australia	<ul style="list-style-type: none"> Believes that cholesterol claims should be prohibited. The Draft Proposal indicates that supporters of cholesterol claims based this on a long history of such claims and a reliance on them by consumers. However, FSANZ research indicated consumers were relying on these claims erroneously, with the knowledge of the relationship between dietary cholesterol and blood cholesterol being poor. Studies show that saturated fat intake is strongly correlated with blood cholesterol, yet for the general population; dietary cholesterol makes no significant contribution to blood cholesterol and atherosclerosis. Continuing permission for dietary cholesterol claims, even with the disqualifying low saturated fat criteria, does nothing to address consumer confusion regarding the effect of dietary cholesterol on blood cholesterol. There is likely to be further confusion when high level claims regarding blood cholesterol are made.
Department of Human Services - Victoria	Government - Australia	<ul style="list-style-type: none"> Maintains that cholesterol claims should be prohibited based on the poor knowledge of consumers in respect to the relationship between dietary cholesterol and blood cholesterol, and the potential for such claims to be misleading. Were the claims to be prohibited, the cost to industry of removing them would be negated by the 2-year transition period and the ability for manufacturers to change the focus on the label to other nutrient claims such as saturated fat.
Queensland Health	Government - Australia	<ul style="list-style-type: none"> Reiterates that cholesterol claims should not be permitted. Saturated and trans fatty acids are more strongly correlated with blood cholesterol levels than dietary cholesterol. The use of dietary cholesterol claims reinforces consumer confusion over this relationship between dietary and blood cholesterol. Many cholesterol claims are misleading appearing on plant foods which do not contain cholesterol.
South Australia Department of Health	Government - Australia	<ul style="list-style-type: none"> Believes that ‘cholesterol free’ claims should be prohibited. Response is same as that given by the Department of Health and Human Services – Tasmania.
Goodman Fielder Limited	Industry – Australia & New Zealand	<ul style="list-style-type: none"> Disagrees with FSANZ’s proposal to remove cholesterol free claims, and consider no justification has been provided other than the comment from NHF. Note that CoPoNC currently permits this claim on the basis that physiologically insignificant levels of cholesterol are present, and consider the claim allows consumers to make healthy choices and note that research indicates it is a claim consumers look for when making food choices.
New Zealand Ministry of Health (Cynthia Maling)	Government – New Zealand	<ul style="list-style-type: none"> Questions the usefulness of ‘no’ or ‘low’ cholesterol and cholesterol free content claims, since dietary cholesterol is not a major determinant of blood cholesterol levels and reference values for dietary cholesterol are not included in the new NRVs. Furthermore, these claims often appear on vegetable oils, and cholesterol is naturally absent from these products. Recommends these claims be prohibited.

30.3 Free claims

Submitter	Group	Comments
Dairy Farmers	Industry - Australia	<ul style="list-style-type: none"> • The lack of criteria for ‘fat free’ or ‘no fat’ claims discriminates against natural foods including dairy and fruit, given that a totally fat free product is not possible. A claim could however be made under Fair Trading on a manufactured sugar based product. • The use of a no fat or fat free claim for skim milk, yogurt and dairy desserts is extensively used to promote these healthy products to consumers concerned about weight control and heart health. The important issue for public health messages is clinical significance rather than zero, as has been recognised by many international regulations including CODEX. • Suggests the retention of the ‘free’ classification for fat based on the current Code of Practice on Nutrient Claims.
Dairy Australia	Industry - Australia	<ul style="list-style-type: none"> • Notes that FSANZ has not stipulated criteria for fat or cholesterol ‘free’ claims, yet conditions are outlined for saturated and trans fatty acids. This highlights and inconsistency in the management of ‘free’ nutrition content claims. • Milk, yoghurt and some dairy desserts currently make such ‘free’ claims under the CoPoNC provisions. For example, for ‘Fat free’ the voluntary conditions allow for an absolute level of no greater than 0.15 g/100 g total fat and a cholesterol level of no greater than 3 mg/100 g. The current proposal discriminates against natural foods, including dairy, given that a totally fat free (or trans free or saturated fat free) product is not possible. The important issue for public health messages is clinical significance rather than zero total fatty acids. • Proposes the retention of a ‘free’ classification with regard to fat, cholesterol, and saturated and trans fatty acid on the basis of: <ul style="list-style-type: none"> - Promotion of international trade - Harmonisation with Codex - Clinical insignificance, e.g. a 250 mL serve of skim milk containing 0.25 g fat. While this is not ‘0’, it represents a value that is not clinically significant. The amount 0.25 g fat represents 0.4 % and 0.27% of the daily fat intake of an average, healthy woman and man respectively. • Recommends the following conditions be introduced to be consistent with Codex guidelines: <ul style="list-style-type: none"> - Fat free – no more than 0.5 g/100 g or 0.5 g/100 mL - Cholesterol free – 0.005 g/ 100 g pr 0.005 g/100 mL and cholesterol level of no greater than 3 mg/100 g.

Submitter	Group	Comments
Danisco Malaysia SDN BHD	Industry - International	<ul style="list-style-type: none"> Concerned that there are no 'sugar free' claims in the Standard and that ACCC will enforce a 'zero' percentage provision on sugar. This would be detrimental to confectionery manufacturing, particularly from a trade standpoint and there would be little if any benefit to consumer health. Notes sugar free claims are provided for in CoPoNC and have been used on appropriate foods for many years in Australia without problem. They have provided helpful nutrition information to consumers and have aided manufacturers in developing foods to meet consumer requirements. Sugar free claims have been based on maximum physiologically, clinically and nutritionally significant levels and are consistent with international food standards (Codex). To abandon this approach in favour of regulation by other general consumer law/legalistic argument, is unhelpful to consumers and food manufacturers since the claim is a 'nutrition' claim and thus should be based on relevant scientific criteria and thus regulated by the Food Standards Code. Requests the proposed standard is revised to include sugar free criteria The above comments also apply to fat free claims. They request that fat free criteria, as in CoPoNC be incorporated into the proposed standard.

30.4 Sugar free

Submitter	Group	Comments
New Zealand Ministry of Health (Cynthia Maling)	Government – New Zealand	<ul style="list-style-type: none"> Recommends % fat free claims not be permitted because they are used to mislead customers (e.g., 90-100% fat free on high sugar products such as confectionery).
Confectionery Manufacturers of Australasia (CMA) New South Wales Branch, Victorian Branch, South Australian Branch, Queensland Branch, CMA NZ Branch, International Confectionery Association	Industry – Australia	<ul style="list-style-type: none"> Maintains strong opposition to the omission of sugar free claims. Is inappropriate and inadequate to regulate some sugar claims and some free claims in the new standard yet leave sugar free to fair trade legislation. Provisions for sugar free claims in CoPoNC should be retained in the new Standard. Reiterates reasons provided at draft assessment and that the proposed approach is inconsistent internationally. Without this confidence, manufacturers may withdraw from the Australasian market.

Submitter	Group	Comments
International Chewing Gum Association	Industry - International	<ul style="list-style-type: none"> • Concerned that FSANZ intends to disallow the use of ‘sugar free’ claims except where the food contains zero sugars. • Sugar free chewing gum has long been sold in Australia and NZ and consumers wishing to receive the dental and oral hygiene benefits are used to the designation. • A very small amount of sugar may appear in sugar free chewing gum from a variety of sources including carry over from polyols or small minute amounts of substances such as maltodextrin and/or glucose syrup which are used as carriers for flavours, e.g. flavour blend containing 10% glucose syrup as a carrier, used at a rate of 200 ppm in the finished product, resulting in 20 ppm sugar (0.002%). • A literalist interpretation of a sugar free claim would require industry to reformulate the flavours used, unnecessary from a health or consumer information perspective. • A very small amount of incidental sugar is nutritionally insignificant and does not mislead consumers and is accepted internationally and is permitted by Codex. • Recognise that consumers may not readily understand that a food claimed to be sugar free may contain minimal sugar but consumers will not be aquatinted with compositional criteria for low and reduced sugar claims. It does not follow from this that consumers will be confused, misled or harmed by these claims. • As members of Codex and the WTO they submit that Australia and NZ are obligated to permit trade in food products claimed to be sugar free unless there is scientific justification for prohibiting the claim. • The WTO Agreement on Technical Barriers to Trade requires that technical regulations not be ‘prepared’, adopted or applied with a view to or with the effect of, creating unnecessary obstacles to trade. Article 2(2) stipulates that unnecessary obstacles to trade can result when a regulation is ‘more trade-restrictive than necessary to achieve a legitimate objective, taking account of the risks non-fulfilment would create. • Article 2(4) requires that where technical regulations are required and relevant international standards exist or their completion is imminent, members shall use them or the relevant parts, as a basis for their technical regulations except when such international standards or relevant parts would be an ineffective or inappropriate means for the fulfilment of the legitimate objectives pursued. • Contends that the Codex guidelines for Use of Health and Nutrition Claims fall under such an interpretation. These include conditions for sugar free of 0.5g sugar per 100g/mL. In reaching these conditions, members considered what minimal amount of sugar present in sugar free foods would be of no significance to the consumer and would not mislead. FSANZ consultation on sugar free has not related to these guidelines. • Submit that on the basis of the TBT Agreement it would be incumbent upon FSANZ to substantiate why the provisions in Codex would be inappropriate or ineffective to reach their objectives. • Requests FSANZ reconsider the inclusion of sugar free in the table to clause 11, or alternatively a ‘100% sugar free’ claim with no more than 0.5g sugar per 100g which would maintain Australia’s compliance with its international obligations.

Submitter	Group	Comments
Mandurah Australia Pty Ltd	Industry - Australia	<ul style="list-style-type: none"> Notes benefits of sugar free products, difficulty in establishing these in the market place and recent specific sugar free retail sections being set up in supermarkets leading to renewed interest in the category from an import and export perspective along with product innovation. Asks FSANZ to reconsider the sugar free claim with residual sugar allowance of 0.2, as per international markets e.g. recent proposal in the EU with a 0.5 allowance. Introduction of a 'degree of being sugar free' e.g. x% sugar free, will allow clever marketers to manipulate the claim and lead to consumer confusion.
Palatinit GmbH	Industry - international	<ul style="list-style-type: none"> Concerned that the draft standard does not contain provisions for sugar free claim, a claim that is well understood worldwide, and that instead, a claim indicating the degree of being sugar free is proposed. Requests that FSANZ reconsider this confusing approach and allow for a sugar free claim following Codex, as major markets worldwide do. Sugar free products have been in the Australian market for a long time and consumers are looking for it for the health benefits associated with these products. Not allowing sugar free claims will exert a trade barrier to the disadvantage of the Australian manufacturers and consumers.
Cadbury Schweppes Pty Ltd	Industry - Australia	<ul style="list-style-type: none"> Reiterates concern that fat free and sugar free continue to be excluded from the Standard. These are quantified internationally and there is no reason why they can't be in Australia and NZ. ACCC has previously acknowledged that they would take no action where insignificant levels of fat or sugar were present by accidental means. Supports adoption of CoPoNC criteria into the Code, so there is no misunderstanding to consumers, industry or government.
Cadbury Schweppes Pty Ltd	Industry - Australia	<ul style="list-style-type: none"> Provisions for sugar free and fat free claims should be retained in the new Standard.
Australian Beverages Council Ltd Supported by Unilever Australasia	Industry - Australia	<ul style="list-style-type: none"> The PFAR gives no provision for the presence of minute, nutritionally insignificant quantities of sugar that is allowed for under the current system.

Submitter	Group	Comments
<p>Confectionery Manufacturers of Australasia (CMA) Limited</p> <p>Supported by CMA New South Wales, CMA Victorian Branch, CMA Queensland Branch and CMA South Australian Branch, CMA NZ Branch, International Confectionery Association</p>	Industry – Trans Tasman	<ul style="list-style-type: none"> • Maintains strong opposition to the omission of sugar free claims and subsequent regulation by fair trade legislation. • Provisions for sugar free claims in CoPoNC should be retained in the new Standard. • Reiterates reasons provided previously (confusion for consumer, hardship for confectionery industry) and provides detail around those reasons. • Regulation of free claims in the standard will offer consistency in the regulatory approach will offer certainty to consumers, industry and government and will not unfairly disadvantage local producers in the global marketplace.
Wrigley	Industry - Australia	<ul style="list-style-type: none"> • Suggests ‘sugar-free’ is defined with P293 since without this the future of such claims is uncertain • Changing from ‘sugar-free- to % sugar-free claims likely to confuse consumers and erode confidence in dental health benefits of products currently labelled as ‘sugar-free’ • Trace amounts of sugar are physiologically, clinically and nutritionally significant • Suggests ‘sugar-free’ claims be allowed on products were sugar is replaced with polyols and intense sweeteners • Outlines that defining ‘sugar-free’ within the Code is consistent with FSANZ objectives • Suggests FSANZ adopts Codex definition of ‘sugar-free’ • Notes that CoPoNC sets a tolerance for sugar in ‘sugar-free’ products at <0.2g/100g

30.5 Lactose claims

Submitter	Group	Comments
<p>General Mills Australia Pty Ltd and General Mills New Zealand Ltd</p> <p>Nestlé</p> <p>Cereal Partners Worldwide</p>	Industry – Trans Tasman	<ul style="list-style-type: none"> • The modification to the cut-off limit for a low lactose claim would make the reduced lactose claim most likely redundant.

30.6 Lean claims

Submitter	Group	Comments
Meat and Livestock Australia	Industry - Australia	<ul style="list-style-type: none"> • Recommends that qualifying criteria for 'lean' is included in relation to red meat at 10 g or less total fat per 100 g. • Demands from health conscious consumers for leaner cuts of red meat and considerable changes to red meat production and retailing over the last 10 years has resulted in more lean cuts of red meat being available. • Strongly promotes lean cuts of red meat and is dedicated to educating consumers on what differentiates a lean cut of red meat from a fatter one. Being able to make a 'lean' claim on pack is an effective way of continuing to help consumers make informed decisions.

30.7 Omega fatty acid claims

Submitter	Group	Comments
ADECRON Food Tech Consulting	Industry – New Zealand	<ul style="list-style-type: none"> • There appears to be little room for declaration of desirable balanced omega 3/6/9 foods as each 6 and 9 claim can only be made if they are at least 40% of fatty acids. • Every declaration of these in the NIP constitutes a nutrient claim so needs to comply. Can something be done about that please? • Suggests consult an oil/fats expert to ascertain options possible with real food and limits linked to that and allow for mixed claims not requiring each fatty acid type to be at least 40%. • IF claims are made about omega 6 and 9 combined, each should not be less than xxx and combined not less than xxxx. • Omega 3 claims should probably still be met as is.
Australian Egg Corporation Limited	Industry - Australia	<ul style="list-style-type: none"> • Supports the proposed criteria for omega-3 claims.
The National Heart Foundation of Australia (Anne-Marie Mackintosh) Supported by The National Heart Foundation of New Zealand (Anna Malan)	Public Health – Australia Public Health – New Zealand	<ul style="list-style-type: none"> • Supports the nutrition content claims conditions for long chain omega-3s as per the current requirements. • Disagrees with omega-3 ALA only being permitted to make a source claim. • Recommends that the standard clarifies why there is discrepancy with reference to ALA such that for 'source' of omega-3 fatty acids, a value of 200 mg per serving is stated but there is an absence of value for 'good source'. • Comments: 'while for most foods the ALA content when converted provides limited to long chain omega-3s this is not the case for all foods. For example, walnuts contain 6300 mg ALA/100 g and 1890 mg ALA/30 g (small handful). This amount is well over the adequate intake reference value for ALA for women 1300 mg and 1800 mg for men'. • States that a review of the literature (yet to be published) by the Heart Foundation indicates that there is evidence that a Mediterranean ALA rich diet has is associated with a reduction in mortality and CHD events (1) • Recommends that consideration be given to foods and that standards make allowance for increased values of ALA as in these types of foods. <p>(1) National Heart Foundation of Australia. Fish, fish oils and long chain omega-3 fatty acids: A review of the evidence. (yet to be published – anticipated for October 2007)</p>

Submitter	Group	Comments
<p>Australian Nut Industry Council</p> <p>Supported by Horticulture Australia Ltd</p>	<p>Industry - Australia</p>	<ul style="list-style-type: none"> • Proposes a new level for ‘good source’ of omega-3 ALA claim of 600 mg per serve. • This level is ten times the amount set out for DHA/EPA claim, taking into account the 10% conversion rate of ALA to DHA and EPA in the body (reference provided). It also represents approximately 50% of the AI of ALA for men and 75% AI for women. • FSANZ should be encouraging labelling messages consistent with National Health Foundation recommendations and Nutrient Reference Values, and promoting both fish and plant sources of omega-3 are in line with these.
<p>General Mills Australia Pty Ltd and General Mills New Zealand Ltd</p> <p>Cereal Partners Worldwide Nestlé</p>	<p>Industry – Trans Tasman</p>	<ul style="list-style-type: none"> • Part (a) of the conditions for a good source of omega-3 fatty acids should be written as ‘the food meets the conditions for a nutrition content claim in relation to omega-3 fatty acids; except that’. • This would then reflect the requirements for omega-3 fatty acid claims as currently specified in standard 1.2.8.
<p>Meat and Livestock Australia</p>	<p>Industry - Australia</p>	<ul style="list-style-type: none"> • Notes the qualifying criteria are based on eicosapentaenoic acid (EPA) and docosahexaenoic acid (DHA), but does not include DPA which also has physiological effects. • This may be because much of the supporting evidence for health benefits is based on dietary supplementation studies with EPA and/or DHA-rich fish oils. • Notes several human intervention trials using DPA-rich supplements that show DPA is equally if not more beneficial than either EPA or DHA for improving cardiovascular risk factors including blood pressure, triglyceride levels and blood lipids. • Compared to EPA and DHA, DPA was found to have a specific inhibitory effect on platelet activation. • Recommends that DPA be included as part of the qualifying criteria for omega-3 fatty acids: <ul style="list-style-type: none"> - The NHMRC recently revised nutrient intake recommendations to include adequate intakes and suggested dietary targets for EPA, DHA and DPA. Important that nutrition content claims are consistent with the nutrient reference values, as this can cause confusion. - The UK JHCI proposed a generic health claim in 2005, ‘<i>eating 3 g weekly, or 0.45 g daily, long chain omega-3 polyunsaturated fatty acids, as part of a healthy lifestyle, helps maintain heart health</i>’. The included EPA, DHA and DPA. • DPA is very relevant for Australians accounting for almost 30 per cent of long-chain omega-3 intake.
<p>Nu-Mega Ingredients Pty Ltd</p>	<p>Industry - Australia</p>	<ul style="list-style-type: none"> • Supports the application of current conditions for use of omega-3 fatty acid nutrition content claims. • These should also be used as the minimum conditions for making general level health claims making the scoring criteria redundant for such claims.

Submitter	Group	Comments
The Omega-3 Centre (Wendy Morgan)	Public Health – Australia and New Zealand	<ul style="list-style-type: none"> • Supports the conditions for use of omega-3 fatty acids which are the same as the current requirements. • Believe it is acceptable for the shorter chain Omega-3 ALA to be permitted to only make a ‘source of Omega-3’ claim as this fatty acid is very ineffectively converted to the long chain Omega-3s which are of most value in the body (Gibson, 2004, Hussein, 2005). • Comments: ‘The Nutrient Reference Values for long chain Omega-3s include docosapentaenoic acid (DPA) as well as EPA and DHA. However, the evidence for beneficial activity of DPA has not yet been firmly established: Importantly, the predominant long chain Omega-3 in meats is DPA, the functional and nutritional attributes of which are largely unknown (Howe, 2006). At this stage, The Omega-3 Centre supports the inclusion of only EPA and DHA as the requirements for Omega-3 content claims’. • Recommend that support be provided for scientific studies to better understand the effects of DPA. State that this issue will need review when those studies are forthcoming.

30.8 Polyunsaturated and monounsaturated fatty acid claims

Submitter	Group	Comments
Australian Egg Corporation Limited	Industry - Australia	<ul style="list-style-type: none"> • Criteria should be the same as omega-3 fatty acid claims, i.e. 28% of fat as saturated, or <5g saturated fat per 100g, as eggs contain 30% of fat as saturated and do not qualify.

30.9 Protein

Submitter	Group	Comments
ADECRON Food Tech Consulting	Industry – New Zealand	<ul style="list-style-type: none"> • Suggests addition of an ‘excellent source’ claim for protein of 15 g protein per serve (old NZ Food Regulations level).
Australian Nut Industry Council Supported by Horticulture Australia Ltd	Industry - Australia	<ul style="list-style-type: none"> • Proposes a level of 2.5 g per serve for ‘source of protein’ claims on plant proteins such as nuts, whilst retaining the 5g and 10 g for source and good source claims for animal protein foods. • Nuts are listed in the meat and alternatives group in The Dietary Guidelines for Australians and The Australian Guide to Healthy Eating. • Preferred serve size is 30 g, however, under the new criteria for protein claims, many nuts such as chestnuts, macadamias, pecans and pine nuts will not be able to make a ‘source’ claim.

30.10 Saturated and trans fatty acid claims

Submitter	Group	Comments
Go Grains Health and Nutrition Limited	Industry - Australia	<ul style="list-style-type: none"> • Does not support the proposed criteria for saturated fat of ≤ 1.5 g saturated and trans fatty acids per 100g. • This criterion would disadvantage some seed breads such as Bakers Delight Cape seed bread, 88% unsaturated fats but exceeds the saturated fat cut off. • Recommends adopting the criteria of less than 28% of total fat being saturated, for products to make low saturated fat claims.

Submitter	Group	Comments
Australian Food and Grocery Council (AFGC) Supported by Simplot	Industry - Australia	<ul style="list-style-type: none"> • Recommends that FSANZ include the criteria for low in saturated (and trans) fatty acids as: the food contains: <ul style="list-style-type: none"> – as a proportion of the total fatty acids content, no more than 28 per cent saturated fatty acids and trans fatty acids; or – no more saturated fatty acids and trans fatty acids than 0.75 g per 100 g for liquid food; or – no more saturated and trans fatty acids than 1.5 g per 100 g for solid food.
Australian Nut Industry Council	Industry - Australia	<ul style="list-style-type: none"> • Recommends the conditions for saturated fat claims be changed to 28% of total fat or less from saturated and trans fat. • The nut industry should be able to explain that while nuts do contain saturated fat the level is outweighed by the high levels of poly and monounsaturated fats. • Conditions for trans fat claims should reflect the changes suggested above.

30.11 Vitamin and mineral claims

Submitter	Group	Comments
Dairy Australia	Industry - Australia	<ul style="list-style-type: none"> • Supports the proposal (p.139) to base nutrition content claims on a ‘serving’ of the food. This ensures a level playing field and that a serve of the food as eaten actually reflects the declared ‘source’ or ‘good source’ nutrition content claim.
Dairy Farmers	Industry - Australia	<ul style="list-style-type: none"> • Recognises that a per serving basis for small serves of a product is a more accurate reflection of what is actually in the serve.
ADECRON Food Tech Consulting	Industry – New Zealand	<ul style="list-style-type: none"> • Agrees with move to per serve basis for criteria, subject to good definition of ‘serving size’ and guidelines to appropriate serve sizes in a user guide. • Reference quantity was confusing and only worked for certain foods. • Agrees with dropping claimable food association and moving to nutrient profiling.
General Mills Australia Pty Ltd and General Mills New Zealand Ltd Cereal Partners Worldwide	Industry – Trans Tasman	<ul style="list-style-type: none"> • Recommends the current requirements are retained, i.e. 10% of the RDI per reference quantity rather than per serve and that this aspect is reviewed within the context of the review for claimable foods.
International Chewing Gum Association	Industry - International	<ul style="list-style-type: none"> • Requiring a serve of chewing gum to contain 10% of the RDI for a vitamin or mineral before a claim can be made will effectively prohibit many such claims. This is because for substances such as minerals with relatively large RDIs, to include 10% of the RDI in 3 g of chewing gum will result in taste, texture or other organoleptic problems. • Requests that products with a serve size of 5g or less can make a claim about vitamins or minerals if the amount of food reasonably expected to be consumed in one day provides 10% of the RDI, e.g. two to three serves of chewing gum. • Notes that the ‘reasonably expected one-day consumption’ of food is the measure by which the UK permits vitamin and mineral claims (see Reg 40 and 41 of the Statutory Instrument 1996 No. 1449 – The Food Labelling Regulations 1996 and Schedule 6).

Submitter	Group	Comments
Nestlé	Industry – Trans Tasman	<ul style="list-style-type: none"> • Recommends the current requirements are retained, i.e. 10% of the RDI per reference quantity rather than per serve and that this aspect is reviewed within the context of the review for claimable foods. • Where the reference quantity in Standard 1.3.2 is greater than the serve size, there is the potential that for current claims to no longer possible with the associated pack changes and consumer confusion.
Wrigley	Industry - Australia	<ul style="list-style-type: none"> • Suggests chewing gum should be permitted to deliver a minimum of 10% RDI in a quantity of gum that could be reasonably expected to be chewed in one day for a vitamin/mineral claim and not per serving size • This would mean two to four lots of two pellet quantities would need to be chewed in a day.

30.12 Use of serve sizes

Submitter	Group	Comments
Fonterra Co-Operative Group Limited	Industry – Australia & New Zealand	<ul style="list-style-type: none"> • Endorses FSANZ’s proposed approach to base nutrition content claims on a ‘serving’ of the food.
ADECRON Food Tech Consulting	Industry – New Zealand	<ul style="list-style-type: none"> • With the use of nutrient profiling, the previous self controlling mechanism for content claims (where criteria are based on per serve, e.g. vitamins, protein, fibre) of the serving size is gone. Suggest remedies: <ol style="list-style-type: none"> 1. Define serving size in the Code e.g. ‘customarily consumed at one eating occasion by a consumer’, with adjustments for container size e.g. typical serve for milk of 200 mL but if served in a 250 mL pack, serve size should be 250 mL. 2. Set up reference values/guidelines for serving sizes in the user guides, similar to the US DVs.
The New Zealand Nutrition Foundation (Kelsey Woodcock)	Public Health – New Zealand	<ul style="list-style-type: none"> • Comments: ‘basing the criteria for nutrition content claims for vitamins and minerals on serving size again raises the issue of lack of standardisation of serving sizes. This increases the risk of manufacturers altering the serving size of products inappropriately in order to meet the criteria for nutrition content claims’.

30.13 Solid versus liquids

Submitter	Group	Comments
Australian Food and Grocery Council (AFGC) Supported by Simplot	Industry - Australia	<ul style="list-style-type: none"> • Recommends that the Table to clause 11 makes a clear distinction between dairy beverages and other liquid foods. • In order to accomplish this, the AFGC recommends clear definitions of solid foods, semisolid foods and liquid foods. • Believes the original purpose for regulating claims in for liquid foods was so that low fat milks could make claims, however it is questionable whether these criteria should be applicable to other liquid foods. • Foods such as smooth soups, dressings and sauces may be regarded as liquid foods and can be considerably high in fat. Low fat versions under the proposed standard must be either 98.5% or 99% fat free, but not 98% or 97% fat free. This reduces the number of low fat alternatives that may make claims. • Setting criteria differentiating the claims for solid foods and liquid foods (other than dairy beverages) will result in some liquid products not legitimately being permitted to be promoted as a positive contribution to a healthy diet.
New Zealand Ministry of Health (Cynthia Maling)	Government – New Zealand	<ul style="list-style-type: none"> • Salt or sodium – criteria for ‘low’ is 120 mg per 100 mL or 120 mg per 100 g. Comments that the convention for other nutrients is for the amount per 100 mL to be half that per 100 g, which suggests one of these values is incorrect.

Submitter	Group	Comments
Unilever Australasia	Industry – Trans Tasman	<ul style="list-style-type: none"> • Does not agree with distinctions between food in different formats and the varying ways these are referred to in the report, i.e. the levels of nutrients in liquid food and solid food required to qualify for a claim, e.g. Nutrient content claims differentiate between solid foods and liquid foods. The FSANZ profiling tool differentiates between Foods and Beverages (except milk and milk powders). And there is a definition in Standard 1.2.8 for Unit Quantity that refers to solid or semi-solid food and beverage or other liquid food. • The measurement marking for certain foods is mandated by Trade Measurement. It is then up to the manufacturer to relate this measurement to the number of serves and serve sizes in the nutrition information panel, e.g. ice cream must be declared by volume but is a solid food.
Heinz Australia and Heinz Wattie’s (Heinz)	Industry – Trans Tasman	<ul style="list-style-type: none"> • It is illogical and an unacceptable anomaly to have different criteria for solid and liquid foods in the table to clause 11. • Recommends changing the term ‘liquid foods’ to ‘dairy beverages’. • Recommends FSANZ review CoPoNC and the reasoning for the distinction between solid and liquid foods. Understand the distinction was for the purpose of regulating claims in relation to milk (low fat milk claims) but the criteria should not be applicable to other liquid foods. • Notes conflict between the Trade Measurement Regulations and the Food Standards Code – nutrition information panels will usually be generated based on the unit measure on the food, which may be prescribed by the Trade Measurement Regulations. Without clear definitions there is risk of identical foods bearing different claims and labels. • Recommends the statement from CoPoNC regarding application of criteria to liquid foods with serving sizes of 200 mL or more only (note to section 14.1) is inserted in the table to clause 11. • Foods such as smooth soups, dressings and sauces may be regarded as liquid foods and can be considerably high in fat. Low fat versions under the proposed standard must be either 98.5% or 99% fat free, but not 98% or 97% fat free. This reduces the number of low fat alternatives that may make such claims. • Have identified some foods that don’t fit within definitions for solid and liquid foods (see table 2 in submission), e.g. 3% fat mayonnaise packed in a jar is traditionally regarded as a solid and could make a low fat claim, but packed into a bottle could be considered a liquid, and no longer qualifies for a low fat claim. • Dictionary definitions are unhelpful. Recommends as an alternative to changing ‘liquid’ to ‘dairy beverages’, clear definitions of solid and liquid foods are provided and that the logical distinction between solids, liquids and semi-solids is clarified. • Requests clarification of the inconsistencies between:- • The references to solids and liquids in the current Standard 1.2.8 Clause 5 1b of the Code which states that: • <i>In the case of a solid or semi solid food - the NIP should be in grams. In the case of a beverage or other liquid food - the NIP should be in millilitres</i> • the reference to solids, semi solids and liquids in [4] Definitions of the proposed variations to Standard 1.2.8 within P293; and • and the briefer reference in the proposed Table to Clause 11 P293. • Notes different interpretations of solid and liquid foods in Australia and NZ which may result in a competitive disadvantage. Also, there are no conflicting regulations in NZ, which gives free licence for products made in NZ. • Suggests solid foods may be defined as:

Submitter	Group	Comments
		<ul style="list-style-type: none"> – Foods consisting predominantly of solid matter, including foods that are partly solids/partly liquids such as liquid foods that contain particulates (e.g. chunky soups, French/Italian dressings), and semi solids (e.g. mayonnaises); and/or – Foods that are originally consisted of predominantly solid matter (such as vegetables, fruit, meat) and were then puréed into a smooth texture – such as infant foods, smooth soups and sauces. <ul style="list-style-type: none"> • Stress that this is a serious issue and are disappointed that these concerns have been ignored to date.

30.14 Nutrient profiling criteria and nutrition content claims

Submitter	Group	Comments
Campbell Arnott's Asia Pacific	Industry - Australia	<ul style="list-style-type: none"> • Supports the exclusion of scoring criteria for nutrition content claims.
Choice – Australia	Consumer - Australia	<ul style="list-style-type: none"> • Supports use of nutrient profiling criteria for nutrition content claims so that unhealthy foods cannot make potentially misleading claims. CHOICE foresees that content claims will be the most widely used because the regulatory requirements are least onerous. But content claims tell consumers only part of the story, so there is increased risk that these claims may mislead consumers. • Cites FSANZ research (presented in DAR) which indicated there was no consistency in perceived level of health benefit among content, general level health claims, and high level claims. Therefore does not see how FSANZ can justify the proposal to have lesser degree of regulation for content claims by not applying eligibility criteria.
Community and Public Health, Canterbury District Health Board	Public Health – New Zealand	<ul style="list-style-type: none"> • Health claims will be perceived by the public as support for the health benefits of the product and they will reasonably expect a base level of nutrition. • Lack of disqualifying criteria for food with nutrition content claims will be problematic for many priority groups with varying literacy and will pose more risk to public health than no nutrition content claims. • Recommends extending nutrient profiling to nutrition content claims.
Consumers' Institute of New Zealand Incorporated (Belinda Allan)	Consumers – New Zealand	<ul style="list-style-type: none"> • Believes that eligibility criteria should be required when foods make any claim – including a nutrient content claim. • Comments that qualitative consumer research commissioned by FSANZ concluded (with the exception of endorsements and cause-related marketing) that there was no consistent pattern to the way in which participants made distinctions between different claims. State that there is the potential that consumers will be misled. Believe these findings do not support the FSANZ decision to not apply eligibility criteria or nutrient profiling to products carrying nutrition content claims.
Department of Agriculture, Fisheries and Forestry (DAFF)	Government - Australia	<ul style="list-style-type: none"> • Believes there are a number of instances in the draft Standard where the degree of risk management applied to certain health claims is inconsistent with the nature and complexity of the claim. For example, both diet and simple glycemic index claims are considered nutrition content claims, but under the draft Standard would be required to meet the qualifying criteria that apply to 'higher risk' general and high level health claims. • Suggests that, in the interest of consistency and to avoid unnecessary complexity, all nutrition content claims should be subject to the same requirements i.e. qualifying criteria should not apply to any content claims.
FOE – Fight the Obesity	Public Health –	<ul style="list-style-type: none"> • Believes nutrition content claims should not be permitted on foods of poor nutritional quality.

Submitter	Group	Comments
Epidemic (Dr Robin Toomath)	New Zealand	<ul style="list-style-type: none"> Comments that the May 2006 issue of Consumer reported the results of an analysis of 26 breakfast cereals specifically marketed to children in New Zealand. Over half were at least one third sugar, and none of the 26 were recommended as suitable as a breakfast food for children; believes content claims on these foods is misleading. Strongly urges that nutrition content claims be subject to food eligibility criteria.
Heinz Australia and Heinz Wattie's (Heinz)	Industry – Trans Tasman	<ul style="list-style-type: none"> Supports that disqualifying criteria don't apply to nutrition content claims. This would discriminate against people with medical conditions and athletes.
New South Wales Food Authority	Government - Australia	<ul style="list-style-type: none"> Suggests that nutrient content claims should be subject to eligibility criteria, similar to general level and high level health claims. Alternatively, further labelling statements indicating that the product does not comply with the eligibility criteria may be appropriate. NSW considers the potential for a milk chocolate bar (high in saturated fat and sugar), to carry a 'source of calcium' claim, due to the lack of eligibility criteria, to be unacceptable. Milk chocolate is not considered by nutritionists to be a healthy product and should not be able to make nutrient content claims promoting nutritional benefit.
New Zealand Ministry of Health (Cynthia Maling)	Government – New Zealand	<ul style="list-style-type: none"> Comments that nutrition content claims can be misleading because the balance of risk-increasing and risk-reducing nutrients is not taken into account. Believes criteria need to be developed to determine whether foods are eligible to carry a nutrition content claim, for example: <ol style="list-style-type: none"> foods should meet the nutrition profiling criteria for health claims; for claims associated with a risk-increasing nutrient (energy, fat, sugar, salt), the food should meet the criteria for 'low' for the nutrient of interest; foods should meet nutrient criteria similar, but more stringent, to those included in Standard 1.3.2. States that it is unclear why nutrition content claims for risk-reducing nutrients (e.g., fibre) are per serve unit, whereas content claims for risk-increasing nutrients are per 100 grams. Comments that if nutrient content claims are based on data from food composition databases, there should be a requirement for data to be sourced from the appropriate country (New Zealand or Australia), unless there is a good reason not to (e.g., data not available for particular nutrient, or analytical method not food standards compliant).
NSW Centre for Public Health Nutrition (Dr Vicki Flood)	Public Health Australia	<ul style="list-style-type: none"> Believes that without disqualifying criteria there is a greater potential to mislead consumers on the overall nutritional benefit of a product. Notes TNS Research conducted at the request of FSANZ reports that respondents were significantly more likely to indicate that they were 'very likely' or 'somewhat likely' to purchase a product with a claim, be it nutrient content, function or a high level claim. Believes nutrient content claims should be treated in the same way as general level and high level health claims with disqualifying criteria being employed. Welcomes the inclusion of further FSANZ research in relation to any decision on nutrient content claims.

Submitter	Group	Comments
<p>South Australia Department of Health</p>	<p>Government - Australia</p>	<ul style="list-style-type: none"> • Restates recommendation that all nutrition content claims be subject to the nutrient profiling scoring criteria, since FSANZ consumer research shows that consumers interpret these types of claims in a very similar way to other general level claims. • Recent information from the US (reported via the American Dietetic Association) supports this recommendation: Sarah Colby, PhD, RD, a researcher with the USDA Agricultural Research Service (ARS) Grand Forks Human Nutrition Research Center, presenting her research recently at the Experimental Biology Conference in the US, reported that more than half of the children's foods that feature nutrition information (such as 'good source of nutrient x') on the front of the package were also found to be high in saturated fat, sodium and/or added sugar. • Colby and colleagues surveyed nearly 57,000 food labels from the major grocery stores within the Grand Forks area. Of those, slightly over 9,000 were considered to be marketed toward children, based on graphics, lettering and promotion designs. • Nearly 80% of the foods marketed toward children carried some nutrition marketing information on the package. But 60% of those foods were also high in saturated fat, sodium and/or added sugar, when compared to the levels recommended in the 2005 Dietary Guidelines for Americans. • There is no reason to suggest that Australia would be any different from the USA.
<p>The Cancer Council Australia (Kathy Chapman, Sarah Mackay, Terry Slevin)</p> <p>Supported by the Cancer Council Western Australia</p>	<p>Public Health - Australia</p>	<ul style="list-style-type: none"> • Main concern is that there is no provision for disqualifying criteria for nutrition content claims. • Would not like to see a situation where unhealthy foods (e.g. confectionery) are highlighting single nutrition characteristics and not having to disclose the full picture of the rest of its nutrient profile, except in the nutrition information panel. • As stated in previous submissions, believes the system for nutrition content claims should be made simpler for consumers and not rely on their knowledge of the full ingredient listing or their ability to interpret a nutrition information panel. • Notes that FSANZ considers these claims to be 'simply statements of fact', believe this is an overly simplistic view. Comments that the way that information is presented, the context in which it is presented, and the material in relation to which it is communicated, are as important as the information itself. • Concerned about the likely misleading nature of many claims and the halo effect that will be given to foods that carry these less regulated claims, particularly given these are the most common type of claim. • States that the application of disqualifying criteria to nutrition content claims is, in fact, consistent with the policy guidelines. The policy guidelines state that 'The standard may also set out qualifying and disqualifying criteria for certain types of claims (e.g. nutrient content claims)...' (Policy guidelines, pg 6, 1st bullet point). • Comments that The Parents Jury (www.parentsjury.org.au) recently ran a webpoll question among its members about fat free claims and reported on the results in a media release on 2 April 2007. The results were that 95% of parents surveyed felt that fat free claims on high sugar confectionery and snack foods were misleading, and 65% of parents believed that 'fat free' labelling on products encourages their children to over consume these foods. The Parents Jury is a web-based forum for parents to voice their views and collectively advocate for the improvement of children's food and physical activity environments.

Submitter	Group	Comments
		The Parents Jury is supported by the Australasian Society for the Study of Obesity, Diabetes Australia – Victoria, The Cancer Council Australia and VicHealth. The Parents Jury currently has over 2,500 members
The Cancer Council Western Australia (Terry Slevin)	Public Health - Australia	<ul style="list-style-type: none"> Believe lack of disqualifying criteria will mislead consumers
The Public Health Association of Australia (Kemmett)	Public Health - Australia	<ul style="list-style-type: none"> Concerned and frustrated that despite many discussions on this matter with FSANZ, the Preliminary Final Assessment Report still does not provide for disqualifying criteria for nutrition content claims. Believes that the new standard should include appropriate disqualifying criteria for nutrition content claims so that unhealthy foods are not permitted to make potentially misleading nutrition content claims. Comments that the lack of disqualifying criteria for foods making nutrition content claims, has resulted in many instances of high fat, high salt and high sugar foods making nutrient content claims, e.g. recently Coco Pops was marketed in a misleading way to children and parents as a healthy food because of its nutrient profile (based on heavy fortification), yet it contains 36% sugar. Believes that by not providing disqualifying criteria for such foods, FSANZ is sanctioning the promotion of foods that contribute to dietary imbalances and obesity among the population – clearly in contradiction of food and nutrition policies.
Queensland Health	Government - Australia	<ul style="list-style-type: none"> Without any controls on the composition of foods that make nutrition content claims it would be possible to consume foods that are high in a particular claimed nutrient, for example calcium, but which are also high in saturated fat and sugar.

30.15 General comments

Submitter	Group	Comments
Community and Public Health, Canterbury District Health Board	Public Health – New Zealand	<ul style="list-style-type: none"> Lack of standard serving sizes and ability to manipulate serve sizes provides advantage for industry to make claims on highly processed products.
Kraft Foods Limited	Industry - Australia	<ul style="list-style-type: none"> Recommends that nutrition information presented in the nutrition information panel not be considered as a claim but merely providing information to consumers. Consumers asked for this information. The panels on some imported products needs to be hidden as it contains a fibre value below the ‘source’ level.
Dairy Farmers	Industry - Australia	<ul style="list-style-type: none"> Notes on p.59 that it is not proposed to extend the descriptor ‘excellent source’ to protein, vitamins and minerals. Considers that because national guidelines suggest increased consumption of calcium and iron, this descriptor should be extended for use with these minerals (and for folate). Notes a predominance of negatives ‘eat less’ in this proposed standard.

Submitter	Group	Comments
Goodman Fielder Limited	Industry – Australia & New Zealand	<ul style="list-style-type: none"> ● Recommends consideration is given to excluding the Nutrition Information Panel as a source of a claim, as this would allow manufacturers to communicate valuable information to consumers via the NIP. ● Concerned that the useful information currently included in the Nutrition Information Panel, to assist consumers to make information choices (rather than for the purposes of backing up a health or nutrition claim), would be no longer permitted under the current proposal. <ul style="list-style-type: none"> – For example, in relation to dietary fibre – unless a product contains at least 2g of dietary fibre per serve it will not be permitted to be included in the NIP, as dietary fibre is not a mandatory nutrient to be declared (hence its inclusion would be an implied claim). – Considers that this is inconsistent with the aim to increase population consumption of dietary fibre, and note that many bread and cereal manufacturers provide this information for consumer information ● Also notes that if a product is part of the National Heart Foundation’s Tick Program and fibre is one of the criteria for the category it is required to appear in the NIP. <ul style="list-style-type: none"> – In the case of bread products the criteria is 4g/100g, so for some products they would have to increase the serve size in order to meet the proposed nutrition content claim criteria of 2g/serve. – Also note that conversely, if meat pies are part of the Tick Program they would meet the requirements for a dietary fibre nutrition claim. ● Notes that consumers are increasingly requesting more product nutritional information, hence like other companies, they include about nutritional aspects of their products regarding poly-, mono-, fatty acid, cholesterol content in the NIP of products. However, with the proposed changes provision of this information may be no longer possible and consumers will have to contact companies to obtain the information.
MasterFoods Australia New Zealand	Industry – Australia & New Zealand	<ul style="list-style-type: none"> ● Supports the AFGC preference for the following content claim criteria: <ul style="list-style-type: none"> – ‘reduced’ should be 25% less than nominated reference material. – ‘source’ should be 10% of the reference value (per serve) – ‘good source’ should be 25% of the reference value (per serve) – absolute claims – ‘low’ should be less than 5% of reference – ‘light’ (and variants) should be as for reduced – diet should be a 25% further reduction in energy than ‘reduced’ (≈40% overall) or meets ‘low’ criteria

Submitter	Group	Comments
MasterFoods Australia New Zealand	Industry – Australia & New Zealand	<ul style="list-style-type: none"> • Products should be able to truthfully and clearly state their content, attributes potential benefits to consumers and consumer health, subject only to appropriate substantiation (i.e. contain what is claimed, deliver the benefit claimed). • That the content of a product includes ingredients, nutrients and ‘non-nutrients’ potential nutrition or health interest, and the appropriate descriptors. • Supports the AFGC opinion that content claims should be based on serve size as this is the amount the portion contributes to the diet. <ul style="list-style-type: none"> – 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 likely to be major contributors to the diet and amount consumed is often more readily decided by the consumer.
Australian Medical Association (Dr Margaret Chirgwin)	Other - Australia	<ul style="list-style-type: none"> • Does not support content claims that are not directly associated with health claims.
Nahim Nehme	Industry - Australia	<ul style="list-style-type: none"> • Believes nutrient content claims should be prohibited.

31. TRAFFIC LIGHT LABELLING

Submitter	Group	Comments
FOE – Fight the Obesity Epidemic (Dr Robin Toomath)	Public Health – New Zealand	<ul style="list-style-type: none"> • Believes that nutrition and health claims on food have a high likelihood of misleading consumers in the absence of some indication of the general status of particular foods with respect to health, such as a ‘traffic light system’. • Believes there should be no expanded provision for claims until such a system has been instituted. • Notes that the meeting of the Australian and New Zealand Food Regulation Ministerial Council held in October 2006 called for consideration of health strategy options including the traffic light system for a uniform food labelling system. • Calls for P293 to be postponed until the entire proposal can be re-examined when the Ministerial Council has made decisions bearing on the introduction of a traffic light system.
NSW Centre for Public Health Nutrition (Dr Vicki Flood)	Public Health Australia	<ul style="list-style-type: none"> • Not convinced the proposed system will be a useful aid for consumers. • Believes a sign posting system, e.g. the UK traffic light system, would better assist consumers. • Comments that The Food Standards Agency in the UK has conducted research on the effectiveness of this system and the results suggest that a coloured traffic light signposting has a very good ability to assist consumers to identify the level (i.e. low, medium or high) of the nutrients listed in the signpost. • Acknowledges that this system does not account for other nutrients that are beneficial for good health. • Believes the traffic light system, with appropriate modifications, e.g. using category based criteria (Model 4), together with the nutrient profile modelling system chosen by FSANZ, would better safeguard consumers from misleading claims as well as assist them in making healthier food choices.

32. TRANSITION PERIOD

Submitter	Group	Comments
George Weston Foods Limited	Industry - Australia	<ul style="list-style-type: none"> • Requests a 4-year transition period for the standard implementation. • Would provide reasonable time to make the necessary changes to packaging. George Weston would also have to invest considerable time and resources into reviewing products subject to the outcomes of this review. • The transition period would also take into account the workload associated with other proposals which will result in further changes to packaging i.e. P295, P230.
Murray Goulburn Co-operative	Industry – Australia	<ul style="list-style-type: none"> • Considers that 2-year transition date may not be sufficient to allow changes to product labelling and may put an unreasonable load on the printing and packaging industry as food manufacturers approach them at the same time for revised labels. • A staggered approach over a longer time period may be one solution. • Recommends that FSANZ contacts the printing and packaging industry for input into an appropriate timing for a major transition to the new Standard which will require vast packaging changes across the food industry.
Fonterra Co-Operative Group Limited	Industry – Australia & New Zealand	<ul style="list-style-type: none"> • Notes that when Standards 2.9.3, 2.9.4 and 2.9.5 are reviewed, any specific provisions around claims will automatically override the horizontal health claims standard (1.2.7) and its 2 year transition period.
Kellogg (Aust) Pty Ltd	Industry - Australia	<ul style="list-style-type: none"> • Requests a 2-year transition period along with a 1-year stock-in-trade provision. • Expects that during the transition period, FSANZ will invest in developing resources to educate consumers on the changes.
NSW Centre for Public Health Nutrition (Dr Vicki Flood)	Public Health Australia	<ul style="list-style-type: none"> • Believes the best approach is to start with a trial period and then evaluate outcomes on the basis of consumer behaviour and responses from the food industry. • Proposes an initial evaluation period (e.g. for 12 months) utilising more stringent criteria than those currently proposed, that could be relaxed on the basis of the evaluation results and with further consultations.
ADECRON Food Tech Consulting	Industry – New Zealand	<ul style="list-style-type: none"> • Must be gazetted with a transition period of 2 years, not waiting for 2 years before being allowed to make a health claim, as is suggested at the end of the draft Code.
SA Department of Health	Government - Australia	<ul style="list-style-type: none"> • A 24-month transition period will result in significant enforcement difficulties and a 12-month transition period is supported.
Coles Supermarkets	Industry – Australia	<ul style="list-style-type: none"> • Supports a minimum 2 year transition phase. • Supports further consideration be given to extensions resulting from introduction of nutrient reference values.
General Mills Australia Pty Ltd and General Mills New Zealand Ltd Cereal Partners Worldwide and Nestlé	Industry – Trans Tasman	<ul style="list-style-type: none"> • Requests a 4 year transition time, particularly for areas of significant impact, e.g. non-compliant ‘light’ claims on low fat products. • Proposed changes could require re-branding which could take considerable time.

Submitter	Group	Comments
Heinz Australia and Heinz Wattie's (Heinz)	Industry – Trans Tasman	<ul style="list-style-type: none"> • Recommends a 5-year transition period to facilitate an orderly change over of labels. • A number of Heinz products are manufactured based on seasonal availability and a two year time frame would give them minimal opportunities to complete the label changes; however a five year time frame would be more manageable and have less impact.
Campbell Arnott's Asia Pacific	Industry - Australia	<ul style="list-style-type: none"> • Recommends a 4-year transition period with a two year provision for stock-in-trade. After this, time should be allowed for a controlled run out of long shelf-life stock such as canned soups. • Recommends that for a period of time, both the present Code of practice on Nutrient Claims and the new Standard for health claims should be acceptable to allow time for costly label and formulation changes to meet the new requirements. • This will also allow changes required due to the revision of Nutrient Reference Values to be incorporated.

33. USER GUIDES

Submitter	Group	Comments
Australian Nut Industry Council	Industry - Australia	<ul style="list-style-type: none"> • Looks forward to seeing the user guide but felt it should have been made available with this report for comment.
Coles Supermarkets	Industry – Australia	<ul style="list-style-type: none"> • Welcome the opportunity to provide input into the user guide. • Strongly suggests the user guide is available at the same time the Standard is gazetted, for maximum compliance.
General Mills Australia Pty Ltd and General Mills New Zealand Ltd Cereal Partners Worldwide Nestlé	Industry – Trans Tasman	<ul style="list-style-type: none"> • FSANZ needs to update the current User Guides; they are extremely out of date and not very helpful to industry because of this. They are also of limited use as they were developed with minimal input from industry. Some of the user guides merely a copy of the Standards. • A user guide for the new standard needs to be developed in consultation with industry and must include appropriate examples. • Within the discussion of the Communication section of the report, FSANZ includes the requirements of industry with the requirements of consumers. General Mills expect the needs of these groups to be somewhat different and need to be treated that way. The requirements of industry to implement the new standard are different to the needs of the consumer in understanding the messages provided by this implementation.

34. COST BENEFIT INFORMATION

Submitter	Group	Comments
Coles Supermarkets	Industry – Australia	<ul style="list-style-type: none"> • Proposal P293 has a significant potential impact on their sales income, the cost of doing business, product innovation and the opportunities to communicate health and nutrition messages to consumers. • Total sales dollars and purchase dollars for fresh produce and meat are provided in submission. • Sales data for the Coles dollar sales volume for House brand products affected by Proposal P293 can be provided to FSANZ in confidence on request.

Submitter	Group	Comments
Heinz Australia and Heinz Wattie's (Heinz)	Industry – Trans Tasman	<ul style="list-style-type: none"> • The impact of P293 has significantly reduced from Draft Assessment. • Due to changes from CoPoNC they will still need to make label changes to a portion of their labels and these changes will outweigh the benefit to the consumer. • Changes resulting from incorporation of new nutrient reference values will potentially mean industry is required to bear huge cost not once but twice. • All label changes involve several different departments and is costly in both time and dollars. See their March 2006 submission for details on cost. • The cost implications can be managed to a significant degree with a longer transition time. • A number of Heinz products are manufactured based on seasonal availability and a two year time frame would give them minimal opportunities to complete the label changes; however a five year time frame would be more manageable and have less impact.
Sanitarium Australia/New Zealand	Industry – Australia/New Zealand	<ul style="list-style-type: none"> • Cost of introducing the proposed eligibility criteria is likely to be significant • Is possible in many cases, manufacturers will reformulate in order to meet criteria • Suggests the following alternatives: • Remove nutrient profiling criteria from the standard and rely on existing measures such as the Trade Practices Act, proposed content profiling requirements and current nutrition labelling to help ensure consumers are not misled. Also could introduce mandatory highlighting of sodium, saturated fat, sugars and energy on nutrition panels for all products • If criteria are removed, suggest research specially examines the impact of allowing general level health claims on all foods as part of the planned review two years after commencement of the standard. • Carry out dietary modelling to determine the likely impact of these revised criteria
Complementary Healthcare Council of Australia (Allan Crosthwaite)	Other - Australia	<ul style="list-style-type: none"> • Comments that a negative experience by consumers could impact on the complementary medicine industry as consumers do not necessarily differentiate between the different sources of calcium especially when chewing gum can be compared with similar complementary medicine dosage including chewing gum and chewable multivitamin/mineral and calcium tablets.
George Weston Foods Limited	Industry - Australia	<ul style="list-style-type: none"> • Notes the high cost of compliance that is likely to be imposed upon manufacturers as a result of the proposed draft standard. • These include: <ul style="list-style-type: none"> - Review and possible reformulation to meet revised criteria e.g. dietary fibre - Revision of pack copy information (nutrition information and ingredient listings) - Management of the above information - Compliance testing and validation - Response to consumer inquiries regarding changes - Cost to source new/alternative ingredients - Staff time to manage the above. • Notes that these costs cannot be easily passed onto consumers, particularly if there is no perceived benefit (e.g. change in dietary fibre levels) to them and represents a real impost on industry for little if any real consumer benefit.

35. FOOD-MEDICINE INTERFACE

Submitter	Group	Comments
SA Department of Health	Government - Australia	<ul style="list-style-type: none"> Strongly recommends a definition for therapeutic is incorporated. The lack of such a definition has been a major difficulty in interpretation and enforcement of the transitional standard and these problems will continue if it is not defined. Reverting to the TGA definition is unhelpful as this definition is for 'therapeutic use' to address the use of medications not food.
Nestlé	Industry – Trans Tasman	<ul style="list-style-type: none"> Supports FSANZ in its activities in ensuring that the necessary changes are made by the New Zealand Government to the NZ Medicines Act in order to allow foods with health claims to be manufactured and sold in New Zealand.
The New Zealand Food Safety Authority (Carole Inkster)	Government - New Zealand	<ul style="list-style-type: none"> NZFSA is progressing the necessary legislative measures to enable the draft Standard 1.2.7 to be applied in New Zealand law. As you are aware there are interface issues with the Medicines Act that need resolving before Standard 1.2.7 can apply. To this end, in April 2007, NZFSA released a public discussion document proposing the replacement of the current Medicines (Related Products (Exempted Foods)) Regulations 2003, which enables application of the Transitional Standard 1.1A.2, with wider regulations exempting foods that comply with the standards of the Australia New Zealand Food Standards Code (the Code) from prohibition as Related Products under section 96 of the Medicines Act 1981. Submissions on the NZFSA discussion document closed on 14 May 2007. It is NZFSA's intention that legislative measures to enable both the Transitional Standard 1.1A.2 and the draft Standard 1.2.7 be in place by the expiry of the current Medicines (Related Products (Exempted Foods)) Regulations on 13 August 2007.
Complementary Healthcare Council of Australia (Allan Crosthwaite)	Other - Australia	<ul style="list-style-type: none"> Comments: 'the majority of complementary medicines on the market make claims that would be consistent with the food standard health claim. However, complementary medicines must meet much more stringent manufacturing, claim substantiation, advertising provisions and enforcement'. Does not fully support the proposal (high level health claims) as has concerns in relation to foods with no nutritional values being able to make claims on added nutritional substances. Considers that these products would in effect be therapeutic dosage forms noting that similar health claims in the context of the total diet are considered 'low level' therapeutic claims under the <i>Therapeutic Goods Act 1989</i>.
General Mills Australia Pty Ltd and General Mills New Zealand Ltd Cereal Partners Worldwide Nestlé	Industry – Trans Tasman	<ul style="list-style-type: none"> Supports the restriction on therapeutic claims and on the comparison between a food product and therapeutic.
New South Wales Food Authority	Government - Australia	<ul style="list-style-type: none"> Remains concerned about the following issues which were included in detail in the submission to the Draft Assessment Report: <ul style="list-style-type: none"> Standard 1.2.7, Clause 3 – with respect to reference to a disease etc., other than in the context of a claim Standard 1.2.7, Clause 3 – with respect to the use of the term 'condition'. Standard 1.2.7, Clause 3 – with respect to other provisions not carried over from the transitional standard

36. SUBSTANTIATION

Submitter	Group	Comments
MasterFoods Australia New Zealand	Industry – Australia & New Zealand	<ul style="list-style-type: none"> Suggests that the substantiation of ‘health claims’ be based solely on the demonstration of the benefit being claimed when the product is consumed as intended.
Foundation for Advertising Research	Research & Academia – Trans-Tasman	<ul style="list-style-type: none"> Recommends that after implementation of Standard 1.2.7 FSANZ consults with the advertising industry to devise permitted claims for fruits, vegetables and/or grains that have appeal to children and teenagers.
The Omega-3 Centre (Wendy Morgan)	Public Health – Australia and New Zealand	<ul style="list-style-type: none"> Supports FSANZ’s statement regarding general level health claims for Omega-3s. ‘The publication of the review and the subsequent opinion by FSANZ is sufficient evidence to support a general level health claim based on the diet-disease relationship between long-chain omega-3 fatty acids and cardiovascular health.’ Believes only foods which contain at least sufficient long chain Omega-3 fatty acids to meet the level required for ‘a source of Omega-3 fatty acids’ nutrition content claim should carry the GL health claim.
Foundation for Advertising Research	Research & Academia – Trans-Tasman	<ul style="list-style-type: none"> Understands why FSANZ has taken a conservative approach towards permitting this high level health claim. But suggests that after implementation of Standard 1.2.7 FSANZ implements a more liberal interpretation that would be consistent with evidence and views of international and national health authorities.
Coles Supermarkets	Industry – Australia	<ul style="list-style-type: none"> Requires clarification on the definition of ‘supplier’ in the substantiation framework. Coles is the ‘brand owner’ of the brand names on Coles House brand food products but does not manufacturer these. Is the responsibility for holding the evidence for substantiation the responsibility of Coles or the manufacturer?
South Australia Department of Health	Government - Australia	<ul style="list-style-type: none"> Recommends that commonly used general level claims such as claims around calcium and iron, be set out in the new Standard with pre-approved wording. This assists small business in the use of well substantiated claims and also makes enforcement much easier. We recommend these be included in guidelines to the standard.
New South Wales Food Authority	Government - Australia	<ul style="list-style-type: none"> Remains concerned about the following issues which were included in detail in the submission to the Draft Assessment Report: <ul style="list-style-type: none"> Standard 1.2.7, Clause 5 (1) (a), 6 (1) (b) and the Table to Clause 12 with respect to the identity of the supplier with each Authority’s legislation Standard 1.2.7, Clause 5 (1) (a) and supplier’s obligation to supply records substantiating the claim.