

**COVER SHEET FOR SUBMISSIONS**
**P293 Health & Nutrition Claims and the Draft Standard 1.2.7 March 2012**

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Individual name/group name/organisation name for publication on the website	DAIRY AUSTRALIA
CONTACT DETAILS	
Title	Ms
First Name	Helen
Surname/Family Name	Mair
Postal Address	Level 5 IBM Centre 60 City Road Southbank Victoria 3006
Email Address	hmair@dairyaustralia.com.au
Telephone Number	03 9694 3703
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**A Submission in Response to:**

**P293 Health & Nutrition Claims and the Draft  
Standard 1.2.7 March 2012**

**Prepared by**

**Dairy Australia  
on behalf of the Australian Dairy Industry**

**March 2012**

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**Submission Co-ordinator:**

**Helen Mair**  
Health & Nutrition Policy Advisor  
Dairy Australia  
T: 03 9694 3703  
[hmair@dairyaustralia.com.au](mailto:hmair@dairyaustralia.com.au)

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# Dairy Australia Submission P293 MARCH 2012

The dairy industry welcomes the opportunity to provide further comments to the FSANZ consultation on P293 Health Claims – the draft nutrition, health and related claims Standard 1.2.7. The dairy industry has and continues to participate actively in the development and review of regulatory initiatives including FSANZ standards such as food labelling. The industry considers this is critical to responding to changing consumer needs, to supporting innovation and to leveraging the unique nutritional benefits of dairy foods for the benefit of consumers' health and well being.

Dairy Australia appreciates that this FSANZ consultation will not revisit issues previously considered part of P293 nor is it seeking any further comment on issues raised in the Review Request and that this consultation specifically seeks comments on:

1. The structure and regulatory clarity of the draft Standard 1.2.7 as provided which includes pre-approval of food health relationships underpinning both general & high level claims and the ability to add claims through FSANZ periodically translating appropriate food & health relationships that are the basis for health claims permitted in the EU & via confidential applications
2. Removal of proposed provisions for the related claims relating to dietary information & cause related marketing as these can be addressed through consumer law
3. Proposed options for the management of fat free & %fat free nutrient content claims in the context of claims potentially misleading consumers, including inviting evidence that consumers are being misled are also covered

## SUMMARY- POSITION & KEY POINTS

The following outlines the Dairy Industry position in response the FSANZ P293 consultation questions.

### DIETARY INFORMATION AND CAUSE RELATED MARKETING

Dairy Australia supports the removal of the proposed provision for the related claims relating the dietary information and cause related marketing, and agrees these can be addressed through consumer law. A number of forums have identified that industry has a role to play in the education of consumers on health diets, and supports the ability of industry to provide factually correct dietary information.

### FAT FREE CLAIMS

Of the presented regulatory options proposed for 'Fat Free' claims, **Dairy Australia supports option 1 – status quo** - with the status quo defined as current CoPONC requirements for fat and % fat free claims.

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## THE DRAFT STANDARD

The dairy industry advocates the following core principles (which are similar to the 'Policy Principles for Health & Nutrition Claims'<sup>1</sup>) within which all regulatory requirements including Health & Nutrition related, must operate,

- Minimum but (cost) effective regulation that is risk (science or evidence) based;
- Outcomes focussed;
- Proportionate to risk or promise;
- Nationally consistent and enforceable;
- Support innovation;
- Support and promote international and domestic trade; and
- Support competition.

**Dairy Australia has reviewed the draft 'Health claims' standard for regulatory clarity in the context of these principles and have identified a number of key points on which Dairy Australia is unable to support relevant aspects of the draft standard.** Further details and recommendations on particular examples are covered in the body of the submission against the specific clauses that Dairy Australia is unable to support within the draft standard.

**1. The proposed draft standard includes a number of regulated permissible and excluded claims that are not based on the most recent scientific evidence and/or are not proportionate to risk.** Examples outlined in the submission include but are not limited to:

- Essentially healthy core dairy foods cannot make claims in line with the evidence supporting the Australian Dietary Guidelines; where as misleading claims such as and the inclusion of particular saturated fat related health claims, which are counter to the current evidence base, can be made. Such a situation is not in the interests of improving public health, especially in the context of population under consumption of 'core dairy' foods.
- The exclusion of pro-biotic claims, and the age limits applied to osteoporosis related claims are not justifiable on scientific grounds
- The process for the addition of new 'General Level' claims is not cost effective either for the regulator or the manufacturer. The effectiveness of the process is limited, in its current form the process cannot respond adequately to the rate of change in scientific knowledge, with the potential to result in some out dated claims, no longer supported by the current scientific evidence even before claims are approved and gazetted. The previous proposal to 'Self Manage' 'General Level' claims supported by an auditable 'Health Claims Plan' which included substantiating scientific evidence that may be sourced from a number of authoritative sources has the capacity to be adequately responsive and cost effective for both the producer and regulator.
- The proposal to regulate content and free claims on the basis of health outcomes is not supported by current scientific evidence. Many currently made content claims have come about due to consumer demand driven by public health messages. As public health messages evolve to reflect current scientific evidence, subsequent consumer demand will drive industry response.

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2. **The draft standard does not support the provision of sufficient information for consumers to make informed choices in regards to food products and health. Improved population health outcomes are in some instances not supported.** Examples outlined in the submission include but are not limited to:
  - The exclusion of permission of claims on infant related products
  - The process of permitting pre-approved "General Level" and "High Level" claims only, discriminates against and potentially discourages the consumption of essentially healthy foods with generally accepted associations by authoritative sources with favourable health outcomes such as pro-biotic foods, and 'core' dairy foods
  - The proposed regulation of content and free claims
  
3. **The draft standard is not proportionate to risk or promise.** Examples outlined in the submission include but are not limited to
  - The requirement for pre-approval and processing of 'General Level' Health Claims being the same as 'High Level' Health Claims. There is no seemingly differentiation in the level of evidence
  - The proposed regulation of content and free claims
  
4. **The intent and the requirements in regard to endorsements and therapeutic nature of products are unclear. This may result in inconsistency in interpretation by both producers, endorsing bodies and enforcement agencies**
  
5. **The standard is inconsistent with national public health policy such as the NHMRC Australian Dietary Guidelines**
  - Claims for whole foods and health relationships that are included and excluded from the pre-approved claims list are not consistent with the evidence statements from the recent Draft NHMRC Australia Dietary Guidelines
  
6. **Innovation will be stifled under the draft standard.** Further detail is provided in the submission against the specific relevant clauses
  - Innovation is critical to the Dairy Industry, and the success of innovation relies on the ability to clearly and truthfully communicate the benefit of the innovation to the consumer.
  - The March 2008 Nutrition, health and related claims A benefit cost analysis prepared by CIE for FSANZ<sup>2</sup> identified that the proposed Health Claims Standard would result in a total net cost to the Dairy category of \$6.3 million. The report also indicated that very few new food products would be generated as a result of the standard or in other words, innovation would be stifled.
  - The March 2012 Draft Health Claims Standard is likely to increase these costs to the dairy category rather than reduce them. Dairy is a core food that is under consumed in Australia,<sup>3 45</sup> the regulatory environment should support product innovation that

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increases consumer appeal of core foods. This requires the ability to communicate the benefits underpinned by the most recent science to the consumer.

- The research that underpins innovation that has the potential to support strategies to improve the health of the population will also be constrained.

#### **7. The draft standard does not support international and domestic trade**

- **The proposed phase in period of 2 years is too short. 4 years would be a more viable time frame.** The cumbersome process of adding health claims to the pre approved list is likely not achievable within 2 years if manufacturers need to apply to add current generally accepted and substantiated general level associations to retain the viability of key product lines. This is of major concern to smaller businesses with few product lines developed for the health conscious consumer
- Only trade with EU is supported, trade with other major jurisdictions and markets will be restricted
- Trade of infant products will be significantly affected

#### **8. The ability of dairy foods to compete in both the domestic and international market place will be restricted.**

- Products exported to markets that required compliance with exporting country regulations will be disadvantaged
- Products exported to the US and Canada will be disadvantaged.
- Small manufacturers of limited product lines that rely on the ability to communicate health benefits may no longer be viable

**Dairy Australia strongly recommends FSANZ review the draft standard to ensure the proposed Health Claims Standard adequately addresses these issues to reflect the FRSC Policy Guideline on Nutrition, Health and Related Claims<sup>6</sup>.**

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# Specific comments on the draft standard 1.2.7

Schedule	Comments
<p><b>2</b> <b>Conditions for permitted claims part 1 Minerals, part 2 Vitamins,</b></p>	<p>In the draft standard ‘<i>Calcium</i>’ and ‘<i>Calcium and Vitamin D</i>’ health claims relating to an association with ‘<i>reduced risk of osteoporosis</i>’ and ‘<i>reduced risk of osteoporotic fracture</i>’ are restricted Persons 65 years and over. Dairy Australia questions this restriction as the evidence regarding the risk of both osteoporosis and osteoporotic fractures starts well before 65 years of age<sup>7, 8</sup>.  <small>9101112131415161718192021</small> Osteoporosis Australia lists a number of risk factors on their web site that are not necessarily related to age including diet lacking in calcium <a href="http://www.osteoporosis.org.au/about/about-osteoporosis/risk-factors/">http://www.osteoporosis.org.au/about/about-osteoporosis/risk-factors/</a>            When each of the critical periods of bone development and bone loss occur, calcium and vitamin D are crucial in building and retaining bone and subsequently reducing the risk of osteoporosis and osteoporotic fracture. Osteoporosis Australia outlines the calcium requirements for each critical life stage to prevent osteoporosis along with outlining why calcium and vitamin D are important and those at risk of vitamin D deficiency  <a href="http://www.osteoporosis.org.au/about/about-osteoporosis/preventing-osteoporosis-calcium/">http://www.osteoporosis.org.au/about/about-osteoporosis/preventing-osteoporosis-calcium/</a> , <a href="http://www.osteoporosis.org.au/about/about-osteoporosis/preventing-osteoporosis-vitamin-d/">http://www.osteoporosis.org.au/about/about-osteoporosis/preventing-osteoporosis-vitamin-d/</a>            This restriction to persons 65 years and over for calcium, vitamin D and osteoporosis related claims is also inconsistent with similar claims that refer to a reduced risk of coronary heart disease, where no restrictions are placed on age groups. It is so assumed that reducing the risk of coronary heart disease in the future by consuming particular foods or nutrients is implied in the claim. Attaining calcium and vitamin D intakes appropriate for an individuals’ particular life stage is important for reducing the risk of osteoporosis and related fractures in the future. Other nutrients that contribute to normal bone and or teeth development where such claims have not been listed in the draft standard as permissible include zinc and protein<sup>22, 23</sup>.</p> <p>Dairy Australia recommends that FSANZ review the restriction to persons 65 years and over for osteoporosis and related claims and review the list of permissible general level health claims associated with vitamins and minerals to capture all generally accepted associations, including those relating to bone health.</p>
<p><b>part 3 other and part 4 foods</b></p>	<p>It is noted that the draft standard ‘<i>Schedule 2 Conditions for permitted health claims Part 3 – Other</i>’ and ‘<i>Part 4 Foods</i>’ provides a proposed list of permissible general level and high level health claims. This list as it currently stands is very limited and does not reflect current generally accepted evidence regarding, foods, nutrients and health outcomes. As it stands, the draft standard discriminates against healthy foods including ‘core’ foods, that are under consumed in the Australian population such as dairy foods. For example there are permissible claims for :</p> <ul style="list-style-type: none"> <li>• sugar or sugars and dental health for confectionary and chewing gum, but not for cheese/dairy and dental health,<sup>24 2526272829</sup></li> </ul>

- energy and normal metabolism or weight maintenance for foods regulated under standard 2.9 but not claims relating to energy to support those with increased activity levels, or require increased energy for illness recovery
- there are no general claims listed relating to pro-biotics. There is a significant evidence base to demonstrate health effects of various pro-biotics, and the associations are generally accepted. Other jurisdictions that would be considered authoritative sources such as the US and Canada<sup>30</sup> permit these general claims The FAO probiotics in food, Health & Nutritional Properties and Guidelines for Evaluation<sup>31</sup> also provides evidence such general claims should be permissible
- There are claims listed for fruit and vegetable consumption, but not for dairy foods. It should be noted that the most recent Dietary Guidelines Review in Australia<sup>32</sup>, but also in the US<sup>33</sup> found the evidence base regarding the association between dairy food consumption and reduced risk of various non-communicable diseases at the same level if not greater than the evidence base for fruits and vegetables. Dairy Australia strongly believes that the evidence of the same strength or greater relating to the association between foods and health outcomes should carry the same weight from food to food or nutrient regardless of the food, if not greater than evidence regards the associations between nutrients only and health outcomes. The population consumes foods not nutrients. The draft Australian Dietary Guidelines have moved to food based evidence rather than nutrient based when considering health outcomes. Current evidence indicates that the context of nutrients, substitution of nutrients and food matrix matter, more than the consideration of a nutrient in isolation. More claims regarding the association between foods and health should be included in the list of those permitted. Permissible health claims should promote the consumption of healthy 'core' foods and support dietary guidelines.
- The saturated fatty acid claims take no account of the most recent evidence<sup>34 353637383940</sup> that finds, what saturated fatty acids are replaced with is important. For example, replacing with saturated fat with refined carbohydrate potentially results in increased cardiovascular risk and replacing with mono-unsaturated fats may result in no benefit. To not take into consideration the most current evidence, implies that just reducing the saturated fatty acid content of a food will reduce cardiovascular risk, when this is not the case, subsequently permitting such high level claims proposed in the draft standard is misleading.

These are only a few examples of issues with the draft of permissible claims (and there are many more), where generally accepted associations or current evidence including that, as assessed by authoritative bodies, is not included in the draft standard. To include claims that are based on outdated evidence with the potential to mislead the consumer is also a major concern. Dairy Australia strongly suggests that prior to finalization of the standard that opportunity is provided for submission for inclusion of further claims especially those that reflect current generally accepted associations and findings of authoritative sources such as the Australian Dietary Guidelines review. To delay the inclusion of such claims by requiring individual applications that may take years to process unless significant cost is incurred would be unreasonable.

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<p><b>2 Protein infants aged 6-12 months</b></p>	<p>The fact that a claim is permitted on a weaning food (made under Std 2.9.2) for 6-12 month infants but all claims including content claims are prohibited on infant formula products (including products 6-12 months) is inconsistent. Comments relating to the need for consistency in approach and the need for consumer information to make informed choices are found in the response to question 2 Fat claims below.</p>
<p><b>4 Requirements for nutrition information panels where certain claims are made</b></p>	<p>Further clarity is sought in regards to the requirements for claims requiring nutrition information made on foods in small packages as opposed to other foods. Currently the draft standard is unclear as to whether the requirements in the Table to sub clause 8(3) apply to only foods in small packages or these requirements also apply to other packaged foods. It would not be reasonable to apply these requirements to foods in small packages only, and there may be difficulty in including all of the required information on the label of a small package. It is also not clear regarding similar requirements for other packaged foods, a similar table format would provide greater clarity.</p>

<p><b>Submitter Name</b></p>	<p><b>Dairy Australia</b></p>
<p><b>Question</b></p>	<p><b>Comment</b></p>
<p><b>2. What evidence can you provide that shows consumers are purchasing foods of lower nutritional quality because they are being misled by fat-free or % fat-free claims?</b></p> <p><b>FSANZ is primarily interested in the substitution of foods of higher nutritional quality with foods of lower nutritional quality which have fat-free claims. Substitution within a general food group (e.g. choosing a different confectionery product) is of lesser importance. (Note: Please provide documented or validated evidence where possible)</b></p>	<p>DA does not have any evidence that demonstrates consumer are purchasing foods of lower nutritional quality because they are being misled by fat-free or % fat free claims, nor is Dairy Australia aware of any evidence. Dairy Australia considers that the association between the food in its entirety and the context of overall diet and relationship with health outcomes must be considered when determining the nutritional quality of a food. Current evidence indicates that this cannot be solely determined on the basis of a single nutrient e.g. fat and/or sugar content, nor any limited range of nutrients to avoid, as consumers eat foods, not nutrients, and the context of the nutrients matters. Health and nutrition related regulatory standards should support dietary guidelines and promote the consumption of all nutrient rich core foods with equity.</p>

**3. Do you support option 1 (status quo), option 2 (voluntary action through a code of practice), or option 3 (regulate with additional regulatory requirements for fat-free and % fat-free claims)? Please give your reasons.**

**Dairy Australia supports option 1 – status quo** - with the status quo defined as current requirements in CoPONC in regards to fat and % fat free claims

It is noted that the ‘*Cost benefit analysis*’ regarding the proposed options for managing fat and %fat free claims is occurring in parallel to this consultation on the proposed options. The absence of the inclusion of compelling benefits proportional to cost, or any scientific evidence makes it difficult for submitters to support and further restriction whether voluntary or regulated on the use of ‘fat free’ and ‘% fat free’ claims.

**For the following reasons . Dairy Australia does not believe there is a need for this approach and the outcome may actually be counter to the policy objectives.**

The proposal to regulate ‘fat free’ claims on the basis on sugar content is an example of ‘nutrition reductionism’. Focus on specific nutrients or “nutrition reductionism” in foods has the potential to cause skewing of dietary patterns irrespective of dietary pattern chosen. A review of the history of health promotion messages and initiatives indicates that these undergo changes in response to changing and emerging scientific knowledge and changing consumer needs and wants. The existing framework of descending into standard setting in response to these is cumbersome, slow and ineffective in achieving public health objectives and consumers’ needs and wants. For public health objectives to be met, it is essential that a new approach is explored to allow claims including content claims that are true. Regulation must be in response to clear market failure but also a supported by the most recent science that the proposed regulation will result in the desired health outcomes.. Generally use of claims on foods is and will continue to be, in response to consumer demand prompted by public health messages. If public health messages influencing the consumer reflect the most recent scientific evidence then claim use on packaging is likely to mirror those messages.

While the food label, associated primary advertising and company web pages may contribute to consumer education it is by no means the sole source of food, health and nutrition education. A Canadian study<sup>41</sup> indicates that nutrition education is equally derived from print and electronic media, friends and relatives and food labels. There does not appear to be hard evidence available for Australia as to the relative contribution of other sources, such as school education, public education programs, media sources, the internet, health practitioners (both mainstream and alternative) or family and friends. It should be noted that of all these potential providers of consumer information, the only one that has been strictly constrained by government intervention, by means of the *Trade Practices Act 1974, the Australia New Zealand Food Standards Code and the State and Territory Food Acts* has been the food label, its associated advertising and company web pages. If other sources of information including health promotion messages continue to claim foods that are low in fat are healthy, then consumers will continue to consume those foods regardless of the presence of claims or not.

The aim of any regulation around fat free or % fat free claims would be to improve health outcomes. FSANZ is bound by the FSANZ act to ensure regulation is evidence based, subsequently must consider the evidence in regards to the relationship between food/diet and health outcomes<sup>42</sup>. The demand for reduced fat products by consumers has been the result of public health messages telling the consumer that fat is bad for their health. The body of evidence has moved on since then and it is now understood that the macro

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nutrient composition of the diet has no effect on overweight and obesity, it is KJ intake that matters, further evidence indicates that simply swapping a regular fat product for a reduced fat product (even if the reduced fat product has less KJ than the regular fat product) does not result in an overall decrease in dietary KJ intake, any decrease from one food is made up elsewhere in the diet, the evidence around particular fats and health outcomes is changing and it is now understood that neither sugar nor fat per say is the issue, but replacing any type of fat with refined carbohydrate has the most adverse effects on health outcomes. Dietary guidance and the supporting evidence base is moving towards the relationship between foods and considering the whole food matrix and health outcomes and in the case of dairy the evidence indicates that whether regular fat or reduced fat, dairy consumption is associated with improved health outcomes when considering all cause mortality<sup>143</sup>. Implementing regulation on fat free claims will result in regulation that is out of date before it is even gazetted. Public health messages will catch up with and begin to reflect the current body of scientific evidence, subsequently consumer demand will change and industry will respond to this through innovation and product development, negating the requirement to regulate.

There may be some possible role for regulation driving manipulation of nutrient profiles of nutrient poor energy dense foods as outlined as being the focus of the 2004 WHO strategy on diet physical activity and health<sup>44</sup>, however even this strategy is out of date, based on evidence up to 2002, now a decade out of date. Even then if the aim is to support this strategy, there is no justification to target only fat related %free and free claims. Development of Policy and Regulation must be based on current evidence not that, that is outdated. Further, all of this information is provided on the NIP as per the Food Standards Code requirements. Consumer guidance on how to utilize the NIP may be a more appropriate first measure rather than imposing further mandated labeling requirements at cost to the manufacturer and ultimately cost to the consumer, especially where the evidence does not support this will improve health outcomes.

Regulation of fat free claims may mean dairy companies may no longer manufacture low fat product options as it would be more difficult to develop fat reduced products that are acceptable to the consumer. Possible solutions would include increased use of non nutritive sweeteners and intense sweeteners, where by development of the School Canteen guidelines indicated that consumers are not supportive of the use of these, along with other additives. Removal of fat in dairy products often involves the addition of non fat milk solids that contain the naturally occurring sugar lactose to improve flavour, texture and mouth feel, any fruit that is added also contains naturally occurring sugar, so before any 'added sugar' is added, intrinsic sugar levels have already increased.

The concept of providing enough "information to allow consumers to make informed choices" creates a dilemma in the development of food regulatory policy, food regulations and in compliance. What is enough information? Different groups within the population will have very different foci. What is the baseline information that consumers have? What is consumer overload? What are informed choices? Do these relate to selection of balanced diets, to selection of foods based on exclusion of specific ingredients or components, to avoidance of allergens? It is clear from a number of studies that the nutrition

	<p>information panels and the ingredient listings on food labels are not well understood by many consumers. It is also clear that basic principles of safe food supply to highly urbanised populations are not well understood. It is also clear that food labels by virtue of their size are limited in the amount of information they can carry. Further regulation of content claims such as those relating to fat may not be the most cost effective or appropriate means to educate consumers on which foods are the most appropriate to meet their individual lifestyle nutritional and health needs.</p>
<p><b>4. Please comment on the possible options for additional regulatory requirements for fat-free and % fat-free claims (option 3) (refer section 8) as follows:</b></p> <p><b>a. Which option do you support and why?</b></p> <p><b>b. What is an appropriate sugar concentration threshold for options 3(b) and 3(d)? Where possible, provide information and evidence to support your suggested threshold value.</b></p> <p><b>c. Are there other suitable options for additional regulatory requirements for fat-free and % fat-free claims? Please describe.</b></p>	<p>Dairy Australia supports option 1. Status Quo as defined above (as per current CoPONC<sup>45</sup> requirements) thus there are no additional requirements. In the proposal, none of the regulatory options regardless of thresholds proposed seem to be supported by current scientific evidence in regards to reducing the risk of either non-communicable diseases or obesity. As outlined above the cost benefit analysis for these proposals is being undertaken in parallel with this consultation, subsequently this information is not provided, either, to inform submitters as to sound rationale for the regulatory options proposed. Dairy Australia is unaware of any evidence to support the regulatory options proposed, will result in improved health outcomes, and does not support regulatory options that are not supported by current scientific evidence nor is there an clear discernable benefit to the various stakeholders either regardless or commensurate to costs of implementing regulation.</p> <p>FSANZ are investigating additional criteria based on the principle of informed choice by consumers and to ensure they are not being misled by fat-free claims. "FSANZ is primarily interested in the substitution of foods of higher nutritional quality with foods of lower nutritional quality which have fat-free claims. Substitution within a general food group (e.g. choosing a different confectionery product) is of lesser importance."</p> <p>In this context Dairy Australia take's the opportunity to point out the need for consumers to have provisions to make informed choices is not limited to claims on the fat content of a food but that the same principle applied in relation to provisions to make informed choice when making the most appropriate infant formula choice.</p> <p>We believe that food standards should be based on science and question the evidence or proof of harm to infants from the inclusion of a content or substantiated health claim on pack. Further, we request that you consider the commentary by Berthold Koletzko in the Annals of Nutrition and Metabolism where he discussed the issue of health claims and made the following comment "<i>Preventing communication of scientifically assured benefits of optimised products bears the risk that it may slow or even stop the significant quality improvements of foods for infants that has occurred over the last decades in numerous single steps, and which has led to large benefits for child health</i>"</p> <p>Although we understand that FSANZ cannot consider this issue in relation to P293, that there is an opportunity for FSANZ to consider this issue when Standard 2.9.1. is reviewed</p>

Impacts from the prohibition of claims on Infant Formula products, if this is gazetted, are trade related issues. The first being the need to extended provision of stock in trade period to 3 years. Marketers are required by distributors and retailers to have 6 months of stock available. Many low volume specialty pediatric products are imported and timing for labeling changes requires a longer lead-time.

Australia exports a significant volume of infant formula products every year. Many of these products are finished products and labeled to go into market. As no other country in the world prohibits content claims on pack, the requirement for export certification will be complicated by the potential need for consideration of exemptions for labeling claims. This may have the unintended consequence of acting as a technical barrier to trade.

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# The Australian Dairy Industry – An Overview

Dairy Australia is the dairy industry's national service company, owned by the industry and whose members are farmers and industry bodies, including the Australian Dairy Products Federation (ADPF) and the Australian Dairy Farmers (ADF). Limited by guarantee, the Company is governed by a Board of Directors chosen by its members. It was privatised in 2003 by the *Dairy Industry Services Reform Act*.

Dairy Australia acts as a key conduit for dairy industry collaboration with governments, regional communities, other industries and institutions, knowledge development and issues management.

The dairy industry is one of Australia's major rural industries. Based on farm gate value of production, it is ranked third behind the beef and wheat industries. There are approximately 8,000 farmers producing over 9 billion litres of milk annually.

The dairy industry is the largest value added food industry contributing \$12 billion at wholesale to the economy. It is estimated that more than 40,000 people are directly employed on farms, manufacturing, transport, distribution and research and development. As a major regional employer, the industry adds value through the processing of milk to produce drinking milk, cheese, butter, cream, yoghurts and a range of speciality products. The estimated value of farm production is \$4 billion annually and total value added production (ex factory) is \$12 billion.

The dairy industry exports approximately 45% of manufactured or further processed product, to over 100 countries and this makes Australia the fourth largest trader of dairy products on the world market, behind New Zealand, the European Union and the United States. Our markets are concentrated in the Asia/East Asia regions, with Japan being our largest customer, followed by Singapore, China, the Philippines and Malaysia. In terms of our major export products, they are, cheese, milk powders (includes infant formula), butter, milk, and other dairy ingredients such as casein and whey products.

Dairy foods are an important contributor to the nutritional health of people from cradle to grave. They are an important source of calcium and proteins, that have been clearly demonstrated to play a significant role in bone and dental health, in weight management,<sup>46 47</sup> in management of hypertension<sup>48 49</sup> and to protect against some forms of cancer<sup>50</sup>.

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# REFERENCES

- <sup>1</sup> [http://www.health.gov.au/internet/main/publishing.nsf/Content/00E8A0712A1A5C3BCA2578A7007FBE77/\\$File/nutrition\\_guidelines.pdf](http://www.health.gov.au/internet/main/publishing.nsf/Content/00E8A0712A1A5C3BCA2578A7007FBE77/$File/nutrition_guidelines.pdf)
- <sup>2</sup> [http://www.foodstandards.gov.au/srcfiles/P293%20Health%20Claims%20FAR%20Attach%2011\\_1.pdf](http://www.foodstandards.gov.au/srcfiles/P293%20Health%20Claims%20FAR%20Attach%2011_1.pdf)
- <sup>3</sup> Baird, D, Bowen J, Syrette, J, Noakes, M (2009) Assessment of 2007 Dairy Intakes in Children from National Nutrition and Physical Activity Survey, CSIRO Human Nutrition, Adelaide, Australia.
- <sup>4</sup> Commonwealth Scientific Industrial Research Organisation (CSIRO) (2008) Preventative Health Nutrition Research Flagship and University of South Australia 2007 Australian National Children's Nutrition and physical Activity Survey: Main findings. Australian Government Department of Health and Aging: Canberra, ACT. Australia.
- <sup>5</sup> Doidge JC & Segal L (2012) Most Australians do not meet recommendations for dairy consumption: findings of a new technique to analyse nutrition surveys. In Press - accepted for publication in the Australia New Zealand Journal of Public Health.
- <sup>6</sup> [http://www.health.gov.au/internet/main/publishing.nsf/Content/00E8A0712A1A5C3BCA2578A7007FBE77/\\$File/nutrition\\_guidelines.pdf](http://www.health.gov.au/internet/main/publishing.nsf/Content/00E8A0712A1A5C3BCA2578A7007FBE77/$File/nutrition_guidelines.pdf)
- <sup>7</sup> Heersche JN, Bellows CG, Ishida Y.( 1998) The decrease in bone mass associated with aging and menopause. J Prosthet Dent 79(1):14-6. <http://www.ncbi.nlm.nih.gov/pubmed/9474535>
- <sup>8</sup> Bonjour, J.-P et al (2008) Inhibition of bone turnover by milk intake in postmenopausal women. BMJ 100 (4) 866-74
- <sup>9</sup> Lanou, A. J., Berkow, S. E. & Barnard, N. D. (2005) "Calcium, dairy products, and bone health in children and young adults: a reevaluation of the evidence", Pediatrics, 115(3) 736-43.
- <sup>10</sup> Teegarden, D et al (2005) Dietary calcium intake protects women consuming oral contraceptives from spine and hip bone loss; J Clin End and Met : 90(9)5127-5133.
- <sup>11</sup> Volek, J. S et al (2003) Increasing fluid milk favorably affects bone mineral density responses to resistance training in adolescent boys; JADA: 103(10)1353-1356
- <sup>12</sup> Cumming RG, Nevitt MC (1997) Calcium for prevention of osteoporotic fractures in postmenopausal women. J Bone Miner Res;12:1321-9.
- <sup>13</sup> Dawson-Hughes B et al (1990) A controlled trial of the effect of calcium supplementation on bone density in postmenopausal women. N Engl J Med;323:878-83
- <sup>14</sup> Elders PJM et al (1994) Long-term effect of calcium supplementation on bone loss in perimenopausal women. J Bone Miner Res;9:963-70
- <sup>15</sup> Nordin BE European Commission. Calcium and osteoporosis. Nutrition 1997;13:664-86
- <sup>16</sup> Prince R et al (1995) The effects of calcium supplementation (milk powder or tablets) and exercise on bone density in postmenopausal women. J Bone Miner Res10:1068-75.
- <sup>17</sup> Reid IR et al (1993) Effect of calcium supplementation on bone loss in postmenopausal women. N Engl J Med 328:460-4.
- <sup>18</sup> Reid IR et al (1995) Long-term effects of calcium supplementation on bone loss and fractures in postmenopausal women: a randomized controlled trial. Am J Med;98:331-335.
- <sup>19</sup> Mackerras D, Lumley T. (1997) First and second year effects in trials of calcium supplementation on loss of bone density in postmenopausal women. Bone;21:527-33.
- <sup>20</sup> Peacock M (1991). Calcium absorption efficiency and calcium requirements in children and adolescents. Am J Clin Nutr;54(Suppl):261S-265S.
- <sup>21</sup> Warensjo E et al., (2011) Dietary calcium intake and risk of fracture and osteoporosis: prospective longitudinal cohort study'. BMJ. May 24;342:d1473. doi: 10.1136/bmj.d1473.
- <sup>22</sup> Palacios C. The role of nutrients in bone health, from A to Z. Crit Rev Food Sci Nutr. 2006;46(8):621-8.
- <sup>23</sup> Tucker KLOsteoporosis prevention and nutrition. Curr Osteoporos Rep. 2009 Dec;7(4):111-7
- <sup>24</sup> Zero DT (1996) Etiology of dental erosion – extrinsic factors. Eur J Oral Sci; 104:162-177
- <sup>25</sup> Moynihan P & Peterson PE (2004) Diet, nutrition and the prevention of dental diseases. Public Health Nutrition, 7: 201-226.
- <sup>26</sup> Merritt J, Qi F & Shi W (2006) Milk helps build strong teeth and promotes oral health. Canadian Dental Association Journal; 34: 5:361-366.
- <sup>27</sup> Johansson I (2002) Milk and dairy products: possible effects on dental health. Scandinavian Journal of Nutrition; 46(3):119-122.
- <sup>28</sup> Johansson I & Holgerson PL (2011) Milk and oral health. In Milk and milk products in human nutrition, Clemens RA, Hernell O & Michaelsen KF (eds). Nestle Nutr Inst Workshop Ser Pediatr Program vol 67, pp55-66.

- 
- <sup>29</sup> Australian Dental Association & Australian Medical Association (2011) Media release How to keep your 'two front teeth' (and all the rest) this Christmas. Accessed Feb 28 2012 <http://ama.com.au/node/7435> and [http://www.ada.org.au/App\\_CmsLib/Media/Lib/1112/M348167\\_v1\\_634600579715287693.pdf](http://www.ada.org.au/App_CmsLib/Media/Lib/1112/M348167_v1_634600579715287693.pdf)
- <sup>30</sup> <http://www.hc-sc.gc.ca/fn-an/label-etiquet/claims-reclam/probiotics-probiotiques-eng.php>
- <sup>31</sup> <ftp://ftp.fao.org/docrep/fao/009/a0512e/a0512e00.pdf>
- <sup>32</sup> <http://consultations.nhmrc.gov.au/files/consultations/n55draftaustraliandietaryguidelinesconsultation111212.pdf>
- <sup>33</sup> 2010 Dietary Guidelines for Americans
- <sup>34</sup> Astrup A et al (2011) The role of reducing intakes of saturated fat in the prevention of cardiovascular disease: where does the evidence stand in 2010? *Am J Clin Nutr*; Apr;93(4):684-8.
- <sup>35</sup> FAO (2010) Food and Nutrition Paper 91. Fats and fatty acids in human nutrition. Report of an expert consultation. Available at <http://foris.fao.org/preview/25553-ece4cb94ac52f9a25af77ca5cfba7a8c.pdf>
- <sup>36</sup> Hooper L, Summerbell CD, Thompson R, Sills D, Roberts FG, Moore H, Davey Smith G, (2011) Reduced or modified dietary fat for preventing cardiovascular disease (review), *The Cochrane Library*, Issue 7.
- <sup>37</sup> Jacobsen et al (2009) Major types of dietary fat and risk of coronary heart disease: a pooled analysis of 11 cohort studies. *Am J Clin Nutr*; 89:1425-32.
- <sup>38</sup> Ramsden CE, Hibbeln JR, Majchrzak SF & Davis JM (2010) n-6 Fatty acid-specific and mixed polyunsaturated dietary interventions have different effects on CHD risk: a meta-analysis of randomised controlled trials. *British Journal of Nutrition*; 104: 1586-1600.
- <sup>39</sup> Siri-Tarino PW, Sun q, Hu FB & Krauss RM (2010) Meta-analysis of prospective cohort studies evaluating the association of saturated fat with cardiovascular disease. *Am J Clin Nutr* Mar;91(3):535-46.
- <sup>40</sup> Skeaff CM & Miller J (2009) Dietary fat and coronary heart disease: summary of evidence from prospective cohort and randomised controlled trials. *Ann Nutr Metab*; 55:173-201.
- <sup>41</sup> Wills et al *Nutrition Reviews* (2009) 67 (suppl 1) S102- S106
- <sup>42</sup> Mullie P et al., (2012) Determinants and nutritional implications associated with low-fat food consumption. *Appetite*; 58: 34-8.
- <sup>43</sup> Soedamah-Muthu SS (2011) Milk and dairy consumption and incidence of cardiovascular diseases and all-cause mortality: dose-response meta-analysis of prospective cohort studies. *Am J Clin Nutr.*;93(1):158-71
- <sup>44</sup> [http://www.who.int/dietphysicalactivity/strategy/eb11344/strategy\\_english\\_web.pdf](http://www.who.int/dietphysicalactivity/strategy/eb11344/strategy_english_web.pdf)
- <sup>45</sup> [http://www.foodstandards.gov.au/\\_srcfiles/Code\\_of\\_Practice\\_jan1995.pdf](http://www.foodstandards.gov.au/_srcfiles/Code_of_Practice_jan1995.pdf)
- <sup>46</sup> Zemel et al (2002): *J Am Coll Nutr* 21 146S - 151S
- <sup>47</sup> Zemel et al (2005) *Am J Clin Nutr*
- <sup>48</sup> Sacks et al (2002): *New England Med* 334 3-10
- <sup>49</sup> Appel et al (1997): *NewEngland J Med* 336 1117-1124
- <sup>50</sup> Parodi P (2003): *Aust J Dairy Tech* 58 114 - 118