



17 April 2007

Submission from the Dietitians Association of Australia

**FOOD STANDARDS AUSTRALIA NEW ZEALAND
AMENDMENT BILL 2007**

The Dietitians Association of Australia (DAA) is the National Association of the dietetic profession, with branches in each State and Territory. DAA represents over 3000 members. DAA is a leader in nutrition and advocates for better food, better health, better living for all. DAA welcomes the opportunity to comment on this bill.

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SCHEDULE 1 - NEW APPLICATION AND PROPOSAL PROCEDURES

DAA Supports proposed changes and makes no further comments or recommendations

SCHEDULE 2 - AMENDMENTS DEALING WITH HIGH LEVEL HEALTH CLAIMS

The Dietitians Association of Australia has concerns regarding Schedule 2 – Amendments dealing with high level claims:

1. The Bill describes a process that has not been finalised. DAA notes that a time period of 18 months has been given to enable full consideration of the Nutrition, Health and Related Claims Standard. DAA hopes that no application for a High Level Claim will be accepted until the new standard has been fully implemented and tested within this 18 month time frame. Public consultation and submissions will assist in trialling and fine tuning the new standard and allowing time for the public to develop confidence in the new standard.

2. The use of expert committees rather than public consultation during the approval process for applications for high level health claims is of considerable interest to DAA. The process for establishment and membership of expert committees is not defined in the amendment bill and more detail on this area is sought by DAA. The fact that the formation of expert committees must be established to consider high level health claim applications and proposals (Items 22 & 23) is supported.

3. DAA understands that industry has concerns about the possibility of competitors' "free riding" on a health claim approval arising from a successful application mounted by them. The level of evidence required under the Nutrition, Health and Related Claims Standard is high. Evidence is likely to be collected from diverse sources, many of them in the public domain from research published in scientific publications. The amendments in this Bill are not concerned with novel foods. Foods already on the market may or may not be covered by some form of intellectual property or trade mark protection. If the food is not a novel food, it is difficult to see how a health claim about the benefits of the food can be seen to be the property of any one company. There may be a valid exception if a company sponsored nutrition research that established new nutrition knowledge to support a new health claim. DAA recommends that applications for new health claims can only be excluded from public consultation if the majority of the research evidence presented is the intellectual property of the applicant. Applications for health claims based largely on research in the public domain should still open to public consultation.

Recommendations

1. DAA is the largest professional nutrition organisation in Australia. Dietitians are employed in a wide variety of work areas including clinical dietetics, community nutrition, education, private sector, government, research and industry and as such are well placed to provide advice on Nutrition and Health Claims for food. DAA hopes that all expert committees will have at least one member nominated by the Dietitians Association of Australia
2. Public Consultation provides confidence in the Food Standards Code and should be included whenever possible in the applications and proposals process. When the supporting information in an application is substantially derived from data in the public domain then the application should still have public consultation as part of the approval process. Applications should only be exempt from public consultation when they contain significant amounts of data which is the intellectual property of the applicant. Commissioned literature reviews and meta-analysis of existing research would not be considered as intellectual property for the purposes of an application for a new health claim.