



**Australian Chronic Disease Prevention Alliance  
Submission to Food Standards Australia New Zealand regarding  
Proposal P293 – Nutrition, Health and Related Claims  
Revised Draft Standard 1.2.7 and Regulation of Fat-Free and % Fat-Free Claims**

30 March 2012

**Australian Chronic Disease Prevention Alliance**

The Australian Chronic Disease Prevention Alliance (ACDPA) is an alliance of five leading non-government health organisations working together in the primary prevention of chronic disease, with particular emphasis on the shared risk factors of poor nutrition, physical inactivity and overweight and obesity.

The members of the ACDPA are:

- Cancer Council Australia
- Diabetes Australia
- Kidney Health Australia
- National Heart Foundation of Australia
- The National Stroke Foundation

ACDPA supports regulatory provisions that help the food industry to produce and market products that assist people to achieve healthier eating patterns. ACDPA therefore supports the revised drafting of Standard 1.2.7 and encourages FSANZ to adopt the Standard without further delay.

ACDPA member organisations are concerned about the way in which false, misleading, deceptive, or simply misunderstood marketing practices can contribute to the development of obesity and therefore the risk of chronic diseases such as cancer, cardiovascular disease and type 2 diabetes. We acknowledge the extensive work undertaken by FSANZ to develop this and previous proposals relating to the standard for nutrition and health claims and appreciate the opportunity to provide comments on this Proposal P293 Nutrition, Health and Related Claims addressing the revised draft Standard 1.2.7 and the additional proposals to regulate fat-free and % fat-free claims.

Yours Sincerely,

A handwritten signature in black ink that reads "Greg Johnson".

Professor Greg Johnson

Chair, Australian Chronic Disease Prevention Alliance

## **Summary**

ACDPA believes that nutrition content claims should only be permitted on foods that meet the Nutrient Profiling Scoring Criterion (NPSC). There is evidence that consumers do not differentiate between health and nutrition claims and that these claims can confuse and mislead consumers about the overall healthiness of food products.

ACDPA supports the Food Standards (Proposal P293 – Nutrition, Health and Related Claims – Consequential) Variation, with the exception of the amendments to Standard 1.2.8 (subclauses 7(2) and 7B).

ACDPA is concerned that the amendment to subclause 7(2) of Standard 1.2.8 removes the requirement for the statement accompanying percentage daily intake information in panels to highlight that a person's daily intakes may be higher or lower depending upon energy needs. ACDPA recommends that this requirement be retained.

ACDPA supports option 3, that fat-free and % fat-free claims be regulated with additional regulatory requirements. It also recommends that "low-fat" claims be regulated in the same manner to ensure that a consistent approach is taken across food products and food categories.

ACDPA supports option 3(a), that fat-free and % fat-free claims should only be permitted on foods that meet the NPSC. The NPSC provides an immediately available and appropriate tool for ensuring that these claims are not made on foods that are unhealthy overall, enabling consumers to make informed choices and consume healthier diets.

- 1. Does the revised drafting accurately capture the regulatory intent as provided in Attachment B? Please consider the clarity of drafting, any enforceability issues and the level of ‘user-friendliness’.**

***Consequential variations 7B - Percentage DI or RDI information presented outside the panel***

ACDPA supports the Food Standards (Proposal P293 – Nutrition, Health and Related Claims – Consequential) Variation, with the exception of the amendments to Standard 1.2.8 (subclauses 7(2) and 7B).

ACDPA is concerned that the amendment to subclause 7(2) of Standard 1.2.8 removes the requirement for the statement accompanying percentage daily intake information in panels to highlight that a person's daily intakes may be higher or lower depending upon energy needs. Without this statement the potential for the understanding of the relativity between kilojoule input and energy output to be lost is high. ACDPA recommends that this requirement be retained.

ACDPA is also concerned that the new clause 7B in Standard 1.2.8 makes express provision for percentage daily intake information to be included outside the nutrition information panel, including on front of pack (if information about serving size is presented together with that information).

In view of the review currently being led by the Legislative and Governance Forum on Food Regulation (Forum) to develop an interpretive front of pack labelling system, ACDPA recommends that consideration of matters related to percentage daily intake information outside the panel/on front of pack is deferred until after the Forum's review is complete.

- 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?**

*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.*

ACDPA supports the commissioning of a literature review on the evidence relating to fat-free and % fat-free claims. Fat-free and % fat-free claims are made on a significant number of products in Australia, across a broad range of product categories.

Generally, the evidence indicates that fat-free, low-fat, % fat-free and other nutrition claims influence consumer perception of the overall healthiness of products, leading to a positive bias and including assumptions that the product has other health attributes or health benefits not mentioned in the claim.

More specifically, the following points are made:

- Many consumers do not understand the difference between health and nutrition claims, with resulting confusion about the overall nutrition value of foods.
- “Low-fat” claims on both snack foods and more basic foods impact on; consumers’ perception of energy density; increase the amount of the food consumed and reduce consumption guilt due to perception of healthiness of the food (particularly among those who are overweight); leading to overeating and significantly increasing energy intake.
- There is limited evidence which indicates that positive biases may impact on purchasing behaviour, potentially that consumers may be purchasing foods of lower nutritional quality.
- In recent research, a majority of consumers were found to be in favour of regulation in this area. The Cancer Council Victoria conducted a national survey in 2010, and found that 89% of consumers supported introduction of regulations to stop food companies promoting healthy aspects of foods that are unhealthy overall.

The ACDPA encourages FSANZ to review possible approaches to protect consumers from misleading conduct and enable them to make healthier food purchasing decisions.

**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.**

ACDPA supports Option 3a to introduce specific requirements to regulate fat-free claims using the Nutrient Profiling Scoring Criteria.

Option 1 is not supported because it does not address the ACDPA member organizations’ concerns about the use of nutrient content claims to promote unhealthy foods. As stated above, fat-free and % fat-free claims may be misleading, therefore option 1 “the status quo” would not address the issue.

Option 2 is not supported. There little evidence that the existing Code of Practice on Nutrition Claims on food labels and in advertising has been effectively enforced and significant evidence that the adoption of the voluntary code has been inconsistent with continuing non-compliance on % fat-free claims. There is no independent evidence that the current scheme has contributed to healthier food intake.

ACDPA supports Option 3. The ACDPA supports regulation of fat-free and % fat-free claims that will ensure a consistent approach across the food industry and will assist industry to produce and market foods that help people achieve healthier eating patterns.

In addition, the ACDPA believes that the consumer education campaign contained in Option 1 should be incorporated into whichever option is selected. This campaign should be developed to include the general population in addition to vulnerable groups, expanded beyond just fat-free and % fat-free claims to include understanding of food labels and nutrition and health claims more widely, include a comprehensive social marketing campaign and should be evaluated.

- 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:**
- a. Which option do you support and why?
  - 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.
  - c. Are there other suitable options for additional regulatory requirements for fat-free and % fat-free claims? Please describe.

ACDPA supports Option 3a, that fat-free and % fat-free claims should only be permitted on foods that meet the Nutrient Profiling Scoring Criteria (NPSC).

Further, ACDPA recommends that:

- “Low-fat” claims are regulated in a similar manner, as these claims are linked to % fat-free claims;
- The regulation is extended to include some comparative fat claims eg in foods such as potato chips that claim “75% less saturated fat” yet are still high in fat.

ACDPA believes it is important to ensure that consumers are assisted to make healthier food choices and not misled by nutrition content claims on labels and in advertising that promote the desirable aspects of a product that is unhealthy overall.

Reasons for this are:

- The NSPC has been developed by FSANZ in accordance with dietary guidelines and takes into account both the positive and negative nutritional aspects of foods, rather than just sugar content. Options 3(b) and 3(d) focus on sugar and not total energy and other nutrients that need to be considered in the context of an overall healthy diet.
- Use of the NSPC will avoid regulatory inconsistencies as it is consistent with the current regulatory approach to regulating health claims.
- Evidence shows that consumers perceive that foods labelled as fat-free or % fat-free have an implied health benefit.
- High sodium foods which would pass under other options would fail under Option 3a, thus encouraging the food industry to reformulate foods in order to make a nutrient claim.

ACDPA does not support Option 3b which is that foods displaying fat-free or % fat-free claims should be required to display a disclosure statement if the sugar content is above a specific threshold. ACDPA has concerns that a disclosure statement may be inadequate to correct any misleading impression created by fat-free or % fat-free claims on the overall healthiness of the product. There is evidence to suggest that disclosure statements may increase consumer confusion.

ACDPA does not support Option 3c which would exclude fat-free and % fat-free claims on certain product categories of food. The definition of product categories may prove to be technically difficult. In addition ACDPA is concerned that consumers need to be protected from misleading claims not only on foods high in sugar or energy, such as confectionary, but on other foods such as breakfast cereals or snack foods, which may not ordinarily be perceived as being high in sugar or energy. While many consumers would know that confectionery products are not healthy choices, it is much more difficult for consumers to identify healthy products when products contain a mix of other foods and ingredients.

ACDPA does not support Option 3d that fat-free and % fat-free claims not be permitted on foods with a sugar content above a specified threshold. This option would permit products that are high in sodium to make fat free claims. By focusing on sugar content only, many unhealthy high-sodium foods would be permitted to make fat-free claims.

In addition, establishing a sugar criterion based on total sugars (rather than added sugars) may disadvantage products where fruit contributes significantly to sugar content.

### Contact details

For further information about this submission from the Australian Chronic Disease Prevention Alliance, please contact:

Ruth Friedman  
Executive Officer  
Australian Chronic Disease Prevention Alliance  
Ph: 0422 422 142  
Email: [rfriedman@diabetessvc.org.au](mailto:rfriedman@diabetessvc.org.au)