

**23 October 2014**  
**[21–14]**

## **Call for submissions – Application A1101**

### **Commencement of Dietary Fibre Claim Provisions**

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FSANZ has received an application from the Australian Food and Grocery Council seeking a delay in the commencement of provisions in Standard 1.2.7 – Nutrition, Health and Related Claims for nutrition content claims about dietary fibre, from 18 January 2016 to 18 January 2017.

FSANZ is seeking general comments on this Consultation Paper, and in particular, cost-benefit information to inform the assessment of the Application in accordance with *Food Standards Australia New Zealand Act 1991* (FSANZ Act) requirements.

**To aid submitters in providing comments, questions are provided. Submitters are encouraged to use the response template provided at Attachment 1, which can be filled in electronically.**

**We particularly encourage submissions from industry stakeholders who are in the process of transitioning to the new claim requirements as well as from industry stakeholders who have already made labelling or product changes in order to comply with the requirements for nutrition content claims about dietary fibre.**

For information about making a submission, visit the FSANZ website at [information for submitters](#).

All submissions on applications and proposals will be published on our website. We will not publish material that is provided in-confidence, but will record that such information is held. In-confidence submissions may be subject to release under the provisions of the *Freedom of Information Act 1991*. Submissions will be published as soon as possible after the end of the public comment period. Where large numbers of documents are involved, FSANZ will make these available on CD, rather than on the website.

Under section 114 of the FSANZ Act, some information provided to FSANZ cannot be disclosed. More information about the disclosure of confidential commercial information is available on the FSANZ website at [information for submitters](#).

Submissions should be made in writing; be marked clearly with the word 'Submission' and quote the correct project number and name. While FSANZ accepts submissions in hard copy to our offices, it is more convenient and quicker to receive submissions electronically through the FSANZ website via the link on [documents for public comment](#). You can also email your submission directly to [submissions@foodstandards.gov.au](mailto:submissions@foodstandards.gov.au).

There is no need to send a hard copy of your submission if you have submitted it by email or via the FSANZ website. FSANZ endeavours to formally acknowledge receipt of submissions within 3 business days.

### **DEADLINE FOR SUBMISSIONS: 6pm (Canberra time) 20 November 2014**

Submissions received after this date will not be considered unless an extension had been given before the closing date. Extensions will only be granted due to extraordinary circumstances during the submission period. Any agreed extension will be notified on the FSANZ website and will apply to all submitters.

Questions about making submissions or the application process can be sent to [standards.management@foodstandards.gov.au](mailto:standards.management@foodstandards.gov.au).

Hard copy submissions may be sent to one of the following addresses:

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CANBERRA BC ACT 2610  
AUSTRALIA  
Tel +61 2 6271 2222

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# 1 Introduction

## 1.1 The Applicant

The Application was made by the Australian Food and Grocery Council (AFGC). The AFGC is the national organisation representing Australia's food, drink and grocery manufacturing industry. The AFGC has the support of the following organisations for the Application: Grains & Legumes Nutrition Council, the New Zealand Food & Grocery Council, and the Food and Beverage Importers Association.

## 1.2 The Application

The Application, received from the AFGC on 15 August 2014, seeks to delay the commencement of provisions in Standard 1.2.7 – Nutrition, Health and Related Claims of the *Australia New Zealand Food Standards Code* (Code) for nutrition content claims about dietary fibre, from 18 January 2016 for 12 months, that is, to 18 January 2017.

## 1.3 The current Standard

Standard 1.2.7 was gazetted in January 2013 with a three-year transition period. Food businesses must comply with the new Standard from 18 January 2016.

Schedule 1 in Standard 1.2.7 includes provisions for nutrition content claims about dietary fibre. Foods carrying *source*, *good source* and *excellent source* (or synonyms of these) claims about dietary fibre must have 2 g, 4 g and 7 g dietary fibre per serving, respectively (see Table 1). These qualifying criteria were developed during Proposal P293 – Nutrition, Health and Related Claims.<sup>1</sup>

## 1.4 Justification for the Application

Before the gazettal of Standard 1.2.7, there were no qualifying criteria for nutrition content claims about dietary fibre in Code, however a voluntary code of practice, the 1995 *Code of Practice on Nutrient Claims in Food Labels and in Advertisements* (CoPoNC) (National Food Authority, 1995), was available in Australia which included qualifying criteria for dietary fibre (see Table 1). The *New Zealand Food Regulations (1984)* included qualifying criteria for *good source* claims only (4 g dietary fibre per serving), however these regulations were revoked in 2002.

**Table 1: Qualifying criteria for nutrition content claims about dietary fibre**

| Descriptors for the dietary fibre nutrition content claim | CoPoNC qualifying criteria  | Standard 1.2.7 qualifying criteria |
|---|-----------------------------|------------------------------------|
|   | g dietary fibre per serving |                                    |
| Source  | 1.5                         | 2                                  |
| Good source   | 3                           | 4                                  |
| Very high or Excellent source                             | 6                           | 7                                  |

In 2012 towards the end of the review of Standard 1.2.7, several breakfast cereal and bread manufacturers expressed concern that the qualifying criteria were set above the criteria in CoPoNC and that this would affect their ability to make nutrition content claims about dietary fibre. In response to this concern, FSANZ further considered the issue in 2013.

<sup>1</sup> Reports prepared for Proposal P293 are available at <http://www.foodstandards.gov.au/code/proposals/Pages/proposalp293nutritionhealthandrelatedclaims/Default.aspx>

Following public consultation in mid-2013, FSANZ decided to maintain the qualifying criteria in Standard 1.2.7 and notified stakeholders of this decision late 2013.<sup>2</sup>

The Applicant asserts that as FSANZ's further consideration of the qualifying criteria was not completed until late 2013, the transition period for nutrition content claims about dietary fibre was effectively shortened by 11 months. The Applicant therefore seeks to delay the commencement of the provisions for nutrition content claims about dietary fibre for 12 months, that is, to 18 January 2017.

## 1.5 Reasons for accepting the Application

FSANZ, acting under section 26 of the *Foods Standards Australia New Zealand Act 1991* (FSANZ Act), accepted the Application for assessment. FSANZ was satisfied that the Application related to a matter that warranted the variation of a food regulatory measure. FSANZ was also satisfied that, given the circumstances and nature of the Application, the applicable information requirements, particularly in relation to regulation impact information, would best be met via consultation with industry and the public.

## 1.6 Procedure for assessment

The Application is being assessed under the General Procedure.

This non-statutory consultation is being undertaken as an initial step. This to gather cost-benefit information that will then inform the assessment of the Application in accordance with the FSANZ Act, particularly paragraphs 29(2)(a) and (b) of that Act.

FSANZ has clarified the regulation impact requirements for the Application with the Office of Best Practice Regulation (OBPR). The OBPR's advice as of September 2014, is that a regulation impact statement will not be required (OBPR ID: 17599).

# 2 Questions for stakeholders

## 2.1 Introduction

Transition periods balance the interests of different stakeholders. This reflects the reality that industry costs can be minimised if there is sufficient time for change. However, this comes at a cost of delaying implementation with its associated opportunity and other costs.

We are seeking cost-benefit information to inform the assessment of the Application in accordance with the FSANZ Act.

Industry stakeholders are invited to respond to Questions 1-9 and all stakeholders are invited to respond to Question 10. **Please use the submission template at Attachment 1.**

## 2.2 Industry data (Attachment 1: Questions 1-9)

We encourage submissions from industry stakeholders who are in the process of transitioning to the new claim requirements as well as from industry stakeholders who have already made labelling or product changes in order to comply with the requirements for nutrition content claims about dietary fibre.

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<sup>2</sup> The consultation paper and final report are available at <http://www.foodstandards.gov.au/industry/labelling/Pages/Qualifying-criteria-for-nutrition-content-claims-about-dietary-fibre.aspx>

We are seeking cost information on labelling changes and product reformulations if the transition period remains at 18 January 2016 or is extended to 18 January 2017.

The information you provide will be used to create aggregate data about the costs of both timeframes. FSANZ will use this information to prepare a cost-benefit analysis.

### **2.3 Stakeholder views (Attachment 1: Question 10)**

We are interested in the views of all stakeholders on this issue. Please give reasons and evidence to support your view.

## **3 Next steps**

Following the consultation period, FSANZ will collate and evaluate the information provided by submitters and prepare a Call for Submissions report as is required under the General Procedure. We expect to publicly consult on this report in early 2015. FSANZ anticipates completing the assessment of this Application by mid-2015.

### **Attachment**

1. Submission template for A1101 – Commencement of Dietary Fibre Claim Provisions

# Attachment 1 – Submission template for A1101 – Commencement of Dietary Fibre Claim Provisions

To assist us in compiling submissions, please complete the tables below.

|  |
|--|
| <p><b>Submitter name and company name:</b></p> |
|--|

## Part A – Questions for food industry

### Question 1

In the table below, please give the total number of products and stock-keeping units (SKUs<sup>1</sup>) you currently sell that carry nutrition content claims about dietary fibre (e.g. claims such as *source*, *good source*, and *excellent source* of dietary fibre or synonyms of these descriptors).

| Item   | Number of products | SKUs <sup>1</sup> |
|--|--------------------|-------------------|
| Products <b>currently for sale</b> that carry nutrition content claims about dietary fibre |                    |                   |

<sup>1</sup> **SKU** - refers to a stock-keeping unit, a unique identifier for each distinct product that can be purchased in business.

### Question 2

In the table below, please give the number of products and SKUs<sup>1</sup> you currently sell that do not meet the requirements for nutrition content claims about dietary fibre in Standard 1.2.7 (i.e. the qualifying criteria) and require changes.

| Item   | Number of products | SKUs <sup>1</sup> |
|--|--------------------|-------------------|
| Products <b>currently for sale</b> that carry nutrition content claims about dietary fibre that <b>do not</b> meet the qualifying criteria in Standard 1.2.7 |                    |                   |

<sup>1</sup> **SKU** - refers to a stock-keeping unit, a unique identifier for each distinct product that can be purchased in business.

### Question 3

Before October 2014, did you make labelling changes in order to comply with the requirements for nutrition content claims about dietary fibre?

Please check the appropriate YES/NO box

**Yes** Please provide the number of SKUs<sup>1</sup> involved and costs in the table below.

Please also indicate if the cost of labelling changes can be undertaken at the same time as other labelling changes for marketing or other purposes in the table below.

| Item                 | Number of SKUs <sup>1</sup><br>(up to October 2014) | Labelling change<br>combined with other<br>labelling changes?<br>(YES/NO) | Direct cost <sup>2</sup> of labelling<br>change <sup>3</sup><br>(up to October 2014) |
|----------------------|---|---|--|
| Labelling<br>changes |   |   |  |

<sup>1</sup> **SKU** - refers to a stock-keeping unit, a unique identifier for each distinct product that can be purchased in business.

<sup>2</sup> **Direct cost** of labelling change: labelling design, labelling production, proofing, package redesign and labour

<sup>3</sup> Please provide only the **additional cost** for this labelling change if it was part of a routine or regular change, e.g. when you made a change for marketing purposes.

**OR**

**No** I have not made any labelling changes before October 2014 in order to comply.



#### Question 4

Before October 2014, did you reformulate products in order to comply with the requirements for nutrition content claims about dietary fibre?

Please check the appropriate YES/NO box.

**Yes** Please provide the number of products and costs in the table below.

| Item                  | Number of products<br>(up to October 2014) | Cost <sup>1</sup><br>(up to October 2014) |
|-----------------------|--|---|
| Product reformulation |  |   |

**OR**

**No** I have not reformulated any products.

#### Question 5

Between October 2014 and the end of the transition period for Standard 1.2.7, will you be making labelling changes in order to comply with the requirements for nutrition content claims about dietary fibre?

Please check the appropriate YES/NO box.

**Yes** Go to **Question 6**.

**No** Go to **Question 8**.

## Question 6

In the table below, please give the **direct** cost (i.e. for label design and printing costs) of labelling changes required to be compliant with the requirements in Standard 1.2.7 for nutrition content claims about dietary fibre:

- (a) if the transition period remains at 18 January 2016
- (b) if the transition period is extended to 18 January 2017

Please also indicate if the cost of labelling changes can be undertaken at the same time as other labelling changes for marketing or other purposes in the table below.

| Item  | Number of SKUs <sup>1</sup> to be relabelled | Labelling change combined with other labelling changes? (YES/NO) | Direct cost <sup>2</sup> of labelling change <sup>3</sup> |
|---|--|--|---|
| Transition period ending <b>18 January 2016</b> |  |  |   |
| Transition period ending <b>18 January 2017</b> |  |  |   |

<sup>1</sup> **SKU** - refers to a stock-keeping unit, a unique identifier for each distinct product that can be purchased in business.

<sup>2</sup> **Direct cost** of labelling change: labelling design, labelling production, proofing, package redesign and labour

<sup>3</sup> Please provide only the **additional cost** for this labelling change if it was part of a routine or regular change, e.g. when you made a change for marketing purposes.

## Question 7

In the table below, please give the **indirect** cost (in terms of recalled products, written off products and packaging) of labelling changes required to be compliant with the requirements in Standard 1.2.7 for nutrition content claims about dietary fibre:

- (a) if the transition period remains at 18 January 2016
- (b) if the transition period is extended to 18 January 2017

| Item  | Indirect costs (in terms of recalled products, written off products and packaging) |
|---|--|
| Transition period ending <b>18 January 2016</b> |  |
| Transition period ending <b>18 January 2017</b> |  |

### Question 8

Between October 2014 and the end of the transition period for Standard 1.2.7, will you be reformulating products in order to comply with the requirements for nutrition content claims about dietary fibre?

Please check the appropriate YES/NO box.

- Yes**    Go to **Question 9**.
- No**     Go to **Part B**.

### Question 9

In the table below, please indicate the number of products that are likely to be reformulated and the cost of reformulation:

- (a) if the transition period remains at 18 January 2016  
(b) if the transition period is extended to 18 January 2017

| <b>Item</b>                                     | <b>Number of products to be reformulated</b> | <b>Cost of reformulation</b> |
|---|--|------------------------------|
| Transition period ending <b>18 January 2016</b> |  |                              |
| Transition period ending <b>18 January 2017</b> |  |                              |

**Part B – Question for all stakeholders**

**Question 10**

Please indicate your preference for the commencement date of the provisions in Standard 1.2.7 – Nutrition, Health and Related Claims for nutrition content claims about dietary fibre.

**Please check the appropriate box.**

- Retain** 18 January 2016
- Change** to 18 January 2017
- No preference** for either date

Please state your reasons in the box below.

| <b>Reasons to support your answer</b> |
|---------------------------------------|
|                                       |