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ACKNOWLEDGED

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FSANZ
Submission to P235
Project Manager – P235,
Food type dietary supplements
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Dear Sir or Madam

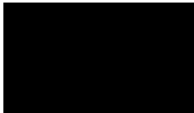
Reference: P235

Please find enclosed comments from PB Foods Ltd. on food type dietary supplements.

Best regards


Research Officer

c.c.

 – Australian Food & Grocery Council
– Health Department WA





PB Foods Ltd.
22 Geddes St
Balcatta WA 6021

Submission

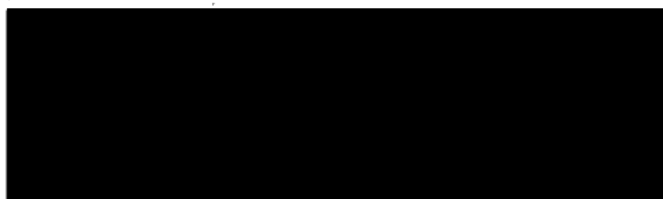
To

Food Standards Australia New Zealand

In response to P235

Company: PB Foods Ltd
22 Geddes St
Balcatta WA 6021

Contact:



Date 5 August 2002

PB Foods Ltd.
22 Geddes St
Balcatta WA 6021

P235- Food-type dietary supplements

1 Introduction and Summary

PB Foods is a West Australian based manufacturer of milk, dairy and ice cream products with an annual turnover of \$300 million. The company is a significant employer in Western Australia with 700 employees, the majority being located at Balcatta (Perth).

Functional foods, foods with additional physiological benefits beyond normal nutrient supply, form a significant part of the company's turnover and will become even more important in the future. Therefore, PB Foods Ltd supports the regulation of food-type dietary supplements as part of the Australia New Zealand Food Standards Code (ANZFSC).

2 Definitions of Food Type Dietary Supplements, Functional Foods, etc

Food type dietary supplements should be clearly delineated from other foods, complimentary medicines and other products regulated under the Therapeutic Goods Act (TGA). For example, fish oils sold in capsules are currently a therapeutic good whereas fish oil sold in bulk is regarded as a food ingredient.

The ANZFSC should define the parameters for all of the different categories such as general foods, formulated supplementary foods, dietary supplements and complementary medicines (regulated by the TGA). Then, the TGA should also be modified to recognise the food categories defined in the ANZFSC, and a clear delineation between these categories should be provided.

Consequently, our submission strongly supports that need for clarifying the definition of functional foods including dietary supplements under the ANZFSC.

We suggest that a task force is set up to address functional foods, supplementary foods, dietary supplements, nutritional claims, health claims and dietary guidelines with a holistic approach. FSANZ, the NHMRC and the Joint Therapeutic Products Agency (JTA) should be involved in this review.

3 Functional Foods and Health Claims

In order to promote and explain the health benefits of innovative products with additional physiological benefits, health claims are required.

In several submissions to ANZFA, PB Foods Ltd pointed out an increase in the development of functional foods and dietary supplements with added ingredients to provide physiological benefits to the consumer. Products such as "Yakult", Brownes "Calcium Plus" or the margarine "Proactive" would fall into this category.

The food industry has a strong interest in this area. Activities are intended to support hospitals and public health sectors by developing and refining functional foods in the market place that deliver real and tangible health benefits. Also, industry is undertaking medical studies with hospitals and Universities to provide scientific substantiation of health claims.

Hence, functional foods are not a short-term fad with food companies making short-term gains. They are a real and long-term introduction into Australia of foods which specifically benefit the health of the consumer and reduce our public health costs. In addition to this, market research shows that people are more and more interested in new food products with additional health benefits (functional foods).

PB Foods Ltd.
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However, ANZFSC does not encourage functional food development by food companies, which is the outcome now realised by the food industry in Australia and NZ. In contrast to Australia and NZ, certain health claims are permitted in the US according to the NLEA (Kurzweil, 1998). These have been scientifically reviewed and permitted with certain restrictions. Therefore, we request that FSANZ adopts the health claims permitted in the US.

We urge FSANZ to facilitate, as soon as possible, the development of functional foods, which are currently not covered by the ANZFSC, and claims that can be made about these foods. This means that the proposals 234, 235, 153 and therapeutic goods need to be reviewed in conjunction.

We also request that health claims be permitted for general purpose foods, special purpose foods, functional foods, food type dietary supplements and by adopting the health claims permitted according to the NLEA in the US.

In addition to this, we suggest that a "Food Ethics Committee" be established to evaluate foods that are currently not legal to authorise their introduction into the marketplace in advance of regulatory change.

4 Specific comments

In previous proposals, PB Foods Ltd raised specific issues in relation to dietary supplements, functional foods and supplementary foods. In this submission, we would like to highlight some of those unresolved issues.

4.1 Status of dairy formulated supplementary foods

Brownes Milk "Calcium Plus" most closely meets the formulated supplementary food regulations. Nevertheless, under the ANZFSC "Calcium Plus" does not meet the requirements for formulated supplementary foods due to the energy content although it is a nutrient dense food. One 250 mL serve provide 505 kJ instead of the required 550kJ.

We previously questioned the criteria for the prescribed energy requirement but ANZFA did not provide scientific data for this requirement. The question is if FSANZ can continue to justify that we have to add additional ingredients (eg sugar or fat) to boost the energy content of this low fat milk with high calcium, folate and vitamin A consumed by women.

We urge FSANZ to ensure that the ANZFSC accommodates dairy formulated supplementary foods and dairy functional foods. This requires modifications to the current standard 2.9.3 for formulated supplementary foods.

4.2 Addition of Nutritive Substances

Our experience in new product development has shown that the current standard 1.3.2 for vitamins and minerals is too restrictive with regard to functional foods and food type dietary supplements. We therefore suggest drafting a separate standard for nutritive substances in the form of a positive list that allows the addition of not only vitamins and minerals but also amino acids, choline, herbal extracts, etc. This standard could be based on the PARNUTS regulation in Europe. With this positive list, the standards for special purpose foods could be consolidated and aligned with overseas regulations.

We recommend a separate standard for special purpose foods specifying a positive list of allowed nutritive substances that could be added to the different categories of special purpose foods.

In addition, RDI's and maximum claims for the addition of vitamins, minerals and other nutritive substances considering food type dietary supplements should be reviewed.

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Balcatta WA 6021

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4.3 Vitamin and Mineral Claims

The standard on vitamins and minerals (Std 1.3.2 clause 4) still restricts the comparison of the vitamin or mineral content of one food with that of another food. This means that no comparative claims can be made with regard to vitamins and minerals in special purpose foods.

By contrast, the standard on formulated supplementary foods (Std. 2.9.3 clause 5 (3)) requires a description of the role of the food as a supplement to a normal diet. Without comparative vitamin or mineral claims, this description cannot be clearly conveyed to the consumer. Despite comments from Industry, ANZFA retained the prohibition on comparative claims for vitamins and minerals without providing scientific evidence for the retention of this standard.

We use Brownes "Calcium Plus" to illustrate this issue. Consumer research showed that "Calcium Plus" is regarded as a milk and not as formulated supplementary food. Consumers are aware that "Calcium Plus" is higher in calcium than other milks and is therefore beneficial in situations when calcium intake is low. Hence, consumers want to be informed that this product contains more calcium than other milks. However, the current ANZFSC prohibits comparative claims for vitamins and minerals and consequently restricts information to consumers.

We urge FSANZ to exempt special purpose foods from the prohibition on comparative vitamin and mineral claims, Std 1.3.2 clause 4(b). There should be different rules on claims for special purpose foods.

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5 Recommendations

In general, PB Foods Ltd supports the regulation of food-type dietary supplements as part of the Australia New Zealand Food Standards Code (ANZFSC). We recommend

- To facilitate, as soon as possible, the development of functional foods, which are currently not covered by the ANZFSC, and claims that can be made about these foods
- To ensure that the ANZFSC accommodates dairy formulated supplementary foods and dairy functional foods
- To allow comparative vitamin and mineral claims for special purpose foods
- To add a positive list for nutritive substances that is specific to special purpose foods
- To review RDI's and maximum claims for the addition of vitamins, minerals and other nutritive substances considering food type supplements
- To permit health claims for special purpose foods, functional foods and general purpose foods by adopting the health claims permitted according to the NLEA in the US and the JHCI in the UK
- To establish a "Food Ethics Committee" to evaluate foods that are currently not legal to authorise their introduction into the marketplace in advance of regulatory change
- To set up a task force to address functional foods, supplementary foods, dietary supplements, nutritional claims, health claims and dietary guidelines with a holistic approach. FSANZ, the NHMRC and the Joint Therapeutic Products Agency (JTA) should be involved in this review.

6 References

Kurzweil, P. 1998. FDA Consumer: http://www.fda.gov/fdac/features/1998/698_labl.html

UK Joint Health Claims Initiative: <http://www.jhci.co.uk/>

Directive 2002/46/EC of the European Parliament and of the Council of 10 June 2002 on the approximation of the laws of the Member States relating to food supplements
