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Subject:	**NZDB Submission on P236**		

Good Afternoon,

Please find attached NZDB's submission on P236 - Development of Joint Food Regulation for Sports Foods.

Kind Regards

[redacted]

REGULATORY AFFAIRS MANAGER

Ref: I-Document1

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New Zealand Dairy Board (NZDB) submission on
Proposal P236 – Development of Joint Food Regulations for Sports Foods

08 October 2001

New Zealand Dairy Board (NZDB)

New Zealand Dairy Board is a body corporate established under the Dairy Board Act 1961. Its primary function is to market overseas all dairy products manufactured in New Zealand for export. New Zealand Dairy Board is New Zealand's largest commercial enterprise, and a multinational food marketing organisation. It is the export marketing arm of the New Zealand dairy industry

1. General Comments - Policy

1.1 NZDB support the move to have sports food regulated under the Joint Food Standards Code

1.2 Options for Regulation - NZDB's preferred option is Option 2. Labelling issues should not be covered by a voluntary code of practise due to risks of non-target group users. (Option 3) (Imported products must comply / be enforced with the same requirements as Australia / New Zealand

1.3 The background document clearly indicates that there are issues around enforcing current regulations relating to sports products. If this were the case the policy should primarily address the enforcement issue.

1.4 All foods currently sold under NZDSR, NZFR (1984) or volume 1 of the Food Standards Code, should be captured in the new regulation.

Claims for sports foods will need to be consistent with the Health Claims Regulations and Nutrient Content and Related Claims Regulations that are still under development.

1.5 When Draft Standard 1.2.7 is gazetted update standard 2.9.4 accordingly

2. General Comments - Standards

2.1 (Pg8) Claims may need to be specific to a certain type of sport. For example, the needs of endurance athlete are considerably different from a body builder. It could be misleading to state that a nutrient will benefit all sports people.

2.2 There should be provisions to make generic claims such as 'high in protein' and 'high in carbohydrafte'

2.3 (Pg13) Opening paragraphs in Standards should be expanded "This means that such products are not suitable for consumption by children" to include pregnant women. Sports food standard should focus solely on the needs of sports people. A separate standard should be developed if there is sufficient need to consider consumption by other groups.

(P25) Section 8(1)(a) need to clarify protein restrictions - how does this apply 100% protein bodybuilding formulae?

2.4 (Pg15) Market surveillance has found product which exceed permitted levels of nutrients. What are the health risk associated with exceeding the permissions stated in Standard 2.9.4? Once the regulations are in place the enforcement agencies need to enforce products that do not comply.

The standard is very vague in its definitions, which either means its enforcement will allow wide scope in the development of sports products, or it will be very limiting. Therefore I would like to see a more detailed description of sports food, and explanation for how Division 2 relates to the overall standard, and why some additional permitted forms of micronutrients are allowed under Division 2, which is fairly all encompassing anyway. The High protein product is unnecessarily restrictive – some protein supplements are virtually all protein, so up to 100% of the energy may be from protein. This would limit our business.

2.5 (Pg15) Other substances - If an ingredient is legally permitted under the NZDSR NZDB would support its use being transferred to the Sports Food Regulations.

3. Answers to Specific Questions

3.1 *Is the purpose of a Sports Food standard appropriately encompassed by the opening paragraphs in Standard 2.9.4? (Pg13)*

This is vague – where is "food" define – ie there is a grey area with sports supplements such as the beverages, or powders used to make up beverages that may be protein supplements and could be used like a meal replacement product, or the powerade type products. Also now a range of other formats like gels that may be carbohydrate and electrolyte supplements or protein supplements, that should be covered by this

standard. More fuzzy are the tablets – again possible to buy glucose and electrolyte tablets that are positioned as energy supplements and should be covered by this standard.

3.2 *Should sports foods be formulated for reasons beyond physiological demands? If so, what other needs or wants should be considered? (Pg13)*

Not sure what this means, but products are now positioned as providing "protection" eg antioxidants or immune enhancement/restoration, and for optimal performance rather than just meeting a requirement or demand for energy or muscle "growth"

3.3 *Should a sports food standard focus solely on the needs of sports people or consider possible consumption by other groups (for example; children, people wanting convenient products in a form ready for consumption)? If so, which groups and why? (Pg13)*

Definitely need to cover a wider population group than sports people. Many products now available are mainstream, are available in supermarkets, dairies, service stations, and are used by recreational athletes as much as elite and professional athletes. Groups that need more risk assessment are young children, pregnant women, and some illness that may see sports supplement products as suitable for general supplementation during illness/recovery.

Ideally would prefer sports food standards to be categorised by age group (refer sports concepts manual) and the type of sport e.g. third age versus adolescent and strength versus endurance athletes.

3.4 *Should a sports food standard control the representation of sports foods that might inappropriately make them appeal to children? How could this be achieved? (Pg13)*

It is difficult to achieve a satisfactory control system. An advisory statement could be made mandatory for products unsuitable for children e.g. "should not be consumed by children under 15 years of age unless under medical advice".

3.5 *What is the most appropriate definition of a sports food? (Pg14)*

Not easy, but something along the lines of "Any food, beverage or dietary supplement format that claims to deliver nutritional and/or physiological benefit for sports, exercise or physical recreation, that provides principally energy in the form of carbohydrate, protein or lipid, and which may contain other nutrients and/or components that have physiological benefits." All other types of supplements should be covered by the NZDSR or Therapeutic Goods Act.

3.6 *Should the definition of nutritive substances be clarified to extend beyond a potentially narrow definition of nutritional purpose for the purposes of permitting added substances to sports foods? If so, how should that purpose be described? (Pg15)*

Yes, other physiological benefits from potentially non-nutritive components such as probiotics for immune health, phytochemicals for other physiologically relevant benefits such as ergogenic, antioxidant effects.

3.7 *Should more nutritive (and other) substances be permitted additions to sports foods? If so, what criteria should be considered (for example safety, efficacy?) (Pg16)*

Safety (risk assessment), efficacy (at least literature, if not product specific data), availability of analytical capability and reliability to monitor and control levels, GRAS status, acceptance in other countries for that purpose,

3.8 *Is there a need to reappraise ANZFA's previous approach to risk assessment, particularly in the absence of evidence? (Pg16)*

Need a defined degree of efficacy / safety testing before given approval as a sports food additive, label claims etc

3.9 *Are there particular botanicals used in sports foods which are not prohibited or restricted under Standard 1.4.4, but which should be specifically regulated under Standard 2.9.4?*

Tea polyphenols, plant phytoestrogens, flavonoids.

3.10 *Is caffeine an appropriate ingredient in sports foods? If so, why, from what sources, and under what circumstances? Should a maximum level be set, and if so, on what basis and how should it be expressed? (Pg16)*

There is some evidence that caffeine is useful as a performance enhancer, although at high intakes it is a banned substance. It should at least be considered, and a risk assessment carried out.

Are there other ingredients that should be specifically considered for inclusion or exclusion? For example, gelatin hydrolysates, chondroitin, chitosan and glucosamine forms, probiotics, bee products, eg pollen (with risk assessment), individual food components such as whey protein fractions and hydrolysates, colostrum and immunoglobulins, conjugated linoleic acid, medium chain triglycerides, hydroxymethyl butyrate (with safety assessment)

3.11 *If the definition of 'nutritive substance' is applied to this standard, is it necessary for a definition of sports foods to exclude single-ingredient foods? If so, why? (Pg15)*

No, some supplements may be single ingredients (although not common) and may be intended to be added to some other format, eg whey protein powders added to other beverages or foods to boost the protein content/quality.

Q2 - No. Needs to encompass single ingredients targeted at athletes and which may be added to foods. Note: Potential 'nutritive substances' include whey protein fractions, peptides and hydrolysates and bioactive lipid fractions

3.12 *Is the labelling of products with general advisory statements that warn against consumption by vulnerable groups an appropriate risk management strategy for sports foods? Should other strategies also be adopted? If so, what other strategies are needed and why? (Pg18)*

Yes vulnerable groups should be identified and strategies put in place to minimise the risk – labelling and advertising

3.13 *Are the current advisory statements that warn against consumption by children less than 15 years and pregnant and lactating women, and which apply to all sports foods, appropriate in managing risk? Are there any other sub-groups of the population that should be generally warned against consumption of sports foods? (Pg18)*

People who may use sports supplements as a general dietary supplement, under adverse physiological conditions such as illness.

3.14 *Are there other substances, specific to sports foods, for which advisory or warning statements may be required? If so, what are the substances, and why are such statements necessary? (Pg18)*

Milk proteins, egg proteins, wheat proteins, soy proteins, phenylalanine,

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