

Submission to

Food Standards Australia New Zealand

on the

Draft Assessment Report

Application A470 – Formulated Beverages

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ACA

Australian Consumers' Association
INDEPENDENT INFORMATION FOR SMART CONSUMERS

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The Australian Consumers Association (ACA) appreciates the opportunity to provide comment on the Draft Assessment Report (DAR) for Application A470 – Formulated Beverages. As Food Standards Australia New Zealand (FSANZ) will be aware ACA has been closely involved the development of policy and standards relating to fortification through participation in advisory groups and by providing submissions on mandatory fortification of iodine and folate. In relation to this application, ACA was not able to provide comment on the Initial Assessment Report during the first round of public consultation, as ACA did not have a food policy officer to prepare a submission at that time. Despite this, ACA does believe that this is a particularly important application with significant implications for consumers.

General Comments

This application is about trade issues not about improving public health. This is acknowledged in the Conclusion and Recommendation section of the DAR where FSANZ states that the main benefit offered by Option 2 is the elimination of lost manufacturing opportunities. In ACA's opinion, assessment of this application has not been consistent with the FSANZ objectives, which are:

- a) The protection public health and safety
- b) The provision of adequate information relating to food to enable consumers to make informed choices
- c) The prevention of misleading and deceptive conduct

ACA acknowledges that in reviewing and developing standards FSANZ must have regard to a number of trade issues. However, the distinction lies in the words "must have regard to". In this case it appears that the FSANZ recommendations are driven by trade interests and only "has regard to" the public health and safety, and consumer objectives that should actually be the basis for it's assessment.

ACA appreciates that there is currently inconsistency between the Australian and New Zealand industries in relation to these types of products and we agree that this needs to be rectified in order to protect consumers and improve regulation and enforcement of these products. However, we do not think that the current recommendations will do this. We are also concerned that this will not improve the situation for consumers, if New Zealand manufacturers continue to have a choice between producing to the New Zealand Dietary Supplements Regulation or the FSANZ standard.

It seems that if FSANZ is satisfied that there is no risk to public health and safety, then the trade arguments associated with this applications take priority. However, in some areas, ACA does not agree with FSANZ conclusions to the lack of public health risks or with FSANZ's recommended risk management approach or lack there of. The fact that FSANZ sees no need for additional labelling requirements for these products also shows lack of attention to the need to provide consumers with information that will allow them to manage any potential health risk associated with the consumption, or assess their suitability for children and pregnant women.

Marketing Opportunity v Improving Public Health

In ACA's opinion, formulated beverages are not an appropriate vehicle for delivering vitamins and mineral. This assessment report highlights the fact that these products are more to do with creating a marketing opportunity for manufacturers than a strategic public health strategy to address specific vitamin and mineral deficiencies. At a time when the Commonwealth government is investing in a health promotion message encouraging

consumers to eat two serves of fruit and five serves of vegetables a day, it seems inconsistent, and perhaps counterproductive to be granting permission for a range of formulated beverages that could encourage consumer to drink a formulated beverage as an alternative to fruit and vegetables.

Some manufacturers have been making use of the Formulated Supplementary Sports Food standard to produce formulated beverages that in reality are not targeted towards sports people. Manufacturers' willingness to take advantage of the marketing opportunity despite the lack of appropriate regulation, only highlights that this is about marketing and not improving nutrition.

Formulated beverages are high in sugar and do not provide the dietary fibre and other beneficial phytonutrients present in fruit and vegetables. Lean meats and dairy products, for example, will also contribute to an adequate intake of vitamins and minerals. Consumers can already meet their daily vitamin and mineral needs through consumption of a balanced diet.

ACA believes that formulated beverages should not be seen as a significant source of vitamins and minerals. If a consumer's diet is already poor, then consuming a formulated beverage will not be sufficient to improve it. Conversely, if a consumer's diet is adequate there is no need to consume a formulated beverage as they will be getting sufficient nutrition through consumption of fruits and vegetables, wholegrain cereals, meats and dairy products.

While the draft assessment report refers to consumer demand for formulated beverages, in ACA's opinion FSANZ should not underestimate the extent to which consumer demand has been perpetuated by the marketing of these products. Despite the fact that health claims are not currently permitted (with the exception of the pilot folate health claim), manufacturers are increasingly marketing products on the basis of the supposed health benefits, associated with an ingredient or nutrient (Juice bar products are a particularly good example of this). The very mention of the presence of vitamins and minerals creates the impression that it is a 'healthy' product. Yet, marketing doesn't always tell the whole story. The current marketing of Kellogg's Coco Pops highlights the presence of vitamins and minerals, yet fails to inform the consumer that the product is 36.5% sugar and contains very little fibre.

Labelling Requirements

For this reason ACA believes that formulated beverages should carry statements similar to that on complementary medicine vitamin supplements eg "formulated beverages may only be of assistance if your dietary intake of vitamins and minerals is inadequate" – however, as we have already pointed out above if an individual's diet is generally poor it is unlikely that the vitamins and minerals in a formulated beverage will be sufficient to make the total diet adequate.

Other general advisory statements could include: "consuming formulated beverages does not replace a healthy diet" or "this beverage should not be considered as equivalent to a serve of fruit of vegetables". Where the levels of vitamins and minerals in a formulated beverage present a health risk for children there must be an advisory statement highlighting the fact that the formulated beverage is "not suitable for children".

Target Groups and Subpopulations

The applicant has simply identified the target group for formulated beverages as "those consumers who are looking for these types of beverages"; it is acknowledged that the driver for these products is partly their fashionable image. While it is suggested that 16 – 34 year

olds are the likely target market these products would also have appeal to younger consumers who are also attracted by a fashionable image.

Information provided to FSANZ states that 12-19 year olds account for 20% of the volume consumed for one particular brand of formulated beverages. So while the applicant may state that children are not the target market, it is inevitable that marketing of these beverages will appeal to children. It was also stated that there is a growing market for sports waters specifically targeted towards children. The bright colours associated with the labelling, packaging and even the beverage itself, will appeal to younger consumers, regardless of whether or not it is specifically aimed at children. Parents may also purchase these products for their children because they think they are a healthier alternative to fruit juice, water and soft drink because of the added vitamins and minerals.

As children and adolescents are expected to represent a significant proportion of consumers who are drinking formulated beverages, ACA believes that better safeguards need to be in place to protect young consumers for risks associated with consuming these products. More appropriate safeguards could include:

- The use of children's RDIs rather than adults
- No permissions given if addition of a vitamin or mineral is found to present a risk for children

Rather than determining if there is deficiency in the general population, ACA believes that FSANZ should assess the dietary inadequacy of the target populations only. For example, it is irrelevant if the elderly are deficient in particular vitamins and minerals, as they are not likely to be the target market for formulated beverages. Permission should only be given if there is significant dietary inadequacy within the target population.

Mandatory Fortification – Folate and Iodine

ACA is aware that FSANZ is currently considering mandatory fortification of iodine and folate. In ACA's opinion, if deficiency of these nutrients is so significant that it mandatory fortification is deemed necessary, these nutrients should not be eligible for voluntary fortification. Mandatory fortification allows for a more targeted approach to improving the intake of populations at risk of folate or iodine deficiencies.

If we are to allow both voluntary and mandatory fortification of these nutrients the approach to will become less controlled. It will also become more difficult to determine appropriate levels for mandatory fortification as the extent of voluntary fortification may vary and could lead to over consumption of these nutrients. Voluntary fortification, in conjunction with mandatory fortification, will simply muddy the waters and undermine the public health strategy associated with mandatory fortification.

Therefore, ACA believes that voluntary fortification with iodine and folate should not be permitted if there is mandatory folate and iodine fortification. Similarly, if in the future, mandatory fortification is extended to other nutrients this must result in a removal of permissions to voluntarily fortify with that nutrient.

Managing Risks

The DAR identifies that some vitamins and minerals may present risks for specific age groups and sensitive sub populations. In ACA's opinion FSANZ has not adequately addressed these risks and put safeguards in place to protect these consumers.

ACA is particularly concerned about the risks to children. Given that the DAR identifies that significant proportion of formulated beverage consumers are below the age of 19, we believe that the amount of vitamins and minerals added should be based on the RDI for children, not for adults.

ACA also believes that the risks associated with the addition of iron and iodine for sensitive subpopulations, have not been appropriately managed. While FSANZ acknowledges that iodine and iron may present risks for certain individuals, there is inadequate justification as to why FSANZ has still considered it appropriate to add these minerals, despite the risks identified. While individuals may not be diagnosed with haemochromatosis until sufficient iodine has accumulated, regular consumption of formulated beverages may lead to earlier onset of adverse symptoms.

While ACA's thoughts on the voluntary fortification of iodine have already been discussed above, ACA believes that on the basis of the risks for sensitive subpopulations, FSANZ should not permit the addition of iron at the levels proposed, if at all. ACA believes the risks to individuals with haemochromatosis are not adequately addressed. Despite evidence presented in the risk assessment for the individual micronutrients, ACA does not support the permissions for the addition of beta carotene, and vitamins D and E. We believe that there is sufficient risk of adverse health effects for these fat-soluble nutrients to be rejected.

Sugar

ACA supports the principle of restricting the sugar content of formulated beverages. Sugary beverages such as soft drinks have been associated with increased energy intake, which in turn is associated with obesity. However, ACA is not satisfied that the restriction of sugar content is sufficiently low given the large (600ml) serving size.

The Dietary Guidelines for Australians advises consumers to "consume only moderate amounts of sugars and foods containing sugars". FSANZ has restricted the sugar content of formulated beverages to 7.5g of sugar per 100ml. If a consumer were to drink one 600ml serve of a formulated beverage they would be consuming 45g of sugar. This is more than the intake of sugar from one can of soft drink; for example, a 375ml can of Coca Cola (which equates to one serve) provides 39.8g of sugar.

FSANZ has restricted the level of sugar in formulated beverages to 45g per 600ml serve because it equates to 50% of the daily intake reference value (90g). To suggest it is appropriate for a consumer to get 50% of one day's sugar intake from one beverage that's primary purpose is hydration, is an underestimation of the fact that consumers are likely to consume far more than the remaining 50% of the daily intake reference value for sugar from their meals, snacks and other beverages throughout the day, including sugar from fruit and milk products as well as other refined sugars and sugar present in processed foods.

ACA also believes that the risk of overweight and obesity has not been given adequate consideration. FSANZ has already acknowledged that sweetened drinks are recognised as a risk factor for obesity in children. It is likely that a person who consumes one 600ml serve of formulated beverage will exceed the daily intake reference value for sugar. If a child or adult, is consuming more energy (from any source) than they are expending, this leads to weight gain. With a serve of formulated beverage contributing 45g sugar, consumption of formulated beverages may contribute to excess in total energy consumption.

Despite the proposed restriction on the sugar content of formulated beverages, ACA believes that the restriction to 50% of the daily intake reference value is not sufficient to minimise the likelihood of these beverages contributing to excess energy consumption, which in turn is

linked to overweight and obesity. ACA does not believe that the proposed sugar restriction adequately addresses the specific principle of voluntary fortification that “ permission to fortify should not promote increased consumption of foods high in salt, sugar or fat”.

Artificial sweeteners

While the proposed definition for formulated beverages restricts fruit juice content to no more than 24% of the product, the restrictions on sugar content means that it is unlikely that this level of fruit juice will be added. Therefore, it is likely that manufacturers will use artificial sweeteners to sweeten formulated beverages and still meet the sugar restrictions. ACA suggests that FSANZ reconsiders the implications of increased consumption of artificial sweeteners in light of the intense sweetener survey FSANZ completed in 2003. ACA also believes that there must be statements advising of the presence of artificial sweeteners and the impact of over-consumption on health.

Sports water

If products are marketed as sports waters or using words like hydration and fluid replacement ACA believes that there must be appropriate levels of electrolytes, consistent with levels in sports drinks.

Solis Beverages

ACA is aware of the majority of the products listed in Appendix 4 as a result of investigations into sports waters, vitamin-enhanced waters and products with medicinal herbs. ACA referred to products within the Solis beverage range in a recent article about medicinal herbs. While we acknowledge that this current application is not about medicinal herbs we were surprised that FSANZ only included two of the five Solis products (Bliss and Cherish) in its survey. There are three other beverages in the Solis range (Defence, Power and Adrenalin) containing vitamins and minerals.

ACA realises that these three products also contain medicinal herbs, which are outside of the scope of this application and are being considered by the Food Regulation Secretariat. However, these products do contain added vitamins and minerals, and are in every other way similar to the Bliss and Cherish varieties. ACA believes they should be within the scope of this application acknowledging that policy guidance on medicinal herbs has not been finalised. Any water based drink with added vitamins and minerals should be included within the scope of this assessment.

National Nutrition Survey

Food standards and food policy continues to be developed on the basis of consumption data that is now 10 years old. In the 10 years since the 1995 National Nutrition Survey, the food supply has changed dramatically, so much so that it is likely that the data is not no longer representative of Australian's consumption patterns.

ACA believes that the proposed permissions for formulated beverages is yet another reason why consumption data needs to be updated with commitment to ongoing monitoring and surveillance of consumption. It will be particularly important to monitor the impact of formulated beverages on consumption of vitamins and minerals.

Once again, ACA appreciates the opportunity to provide these comments and trusts that they will be given consideration during the final assessment of Application A470 – Formulated Beverages.