

Submission to the

Food Regulation Standing Committee

on the

Fortification of the Food Supply with
Vitamins and Minerals:
Consultation Paper on Draft Policy
Guidelines

February 2004

ACA

Australian Consumers' Association
INDEPENDENT INFORMATION FOR SMART CONSUMERS

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Thank you for the opportunity to comment on the Consultation Paper on Draft Policy Guidelines for Fortification of the Food Supply with Vitamins and Minerals. The Australian Consumers' Association has a particular interest in this issue and was a member of the external stakeholder advisory group that participated in the development of the draft policy guidelines.

The Australian Consumers' Association is an independent not-for-profit, non-party-political organization established in 1959 to provide consumers with information and advice on goods and services, health and personal finances, and to help maintain and enhance the quality of life for consumers. ACA provides consumer education, conducts surveys into consumer attitudes, lobbies for improved conditions for consumers and distributes unbiased consumer advice.

Independent from government and industry, it lobbies and campaigns on behalf of consumers to advance their interests. ACA is primarily funded through subscriptions to its magazines, fee-for-service testing and other related expert services. There is no government funding for normal running expenses of ACA, and no commercial sponsorship or advertising.

Rationale and Principles for Mandatory and Voluntary Fortification

FSANZ has three primary objectives:

- the protection of public health and safety,
- the provision of adequate information relating to food to enable consumers to make an informed choice; and
- the prevention of misleading and deceptive conduct.

While the first two objectives are high order principles for fortification, the third objective relating to misleading and deceptive conduct is not covered. ACA believes that this important principle should become one of the high-order principles. While the protection of public health and safety is and should be highest priority, fortification and the subsequent marketing of fortified foods has the capacity to mislead or deceive consumers. The use of health and nutrient claims to sell these products will send the message to consumers that they need to consume fortified foods in order to be 'healthy', and that a fortified product is 'better for you' than the non-fortified equivalent. The prevention of misleading and deceptive conduct must become a high-order principle if consumers are to be confident that fortification is in their best interests, not just in the interests of the food industry.

ACA supports a fortification policy based on the Codex principles for fortification. In ACA's opinion, fortification should only be permitted for the purpose of restoration, nutritional equivalence or addressing a demonstrated health need. Where fortification is permitted, there must be certain limitations to food vehicles and amounts of fortificant added. Food vehicles should be consistent with nutrition policy and dietary guidelines in order to avoid foods of poor nutritional value (eg high fat or sugar) being marketed as a 'healthy' product because they have been fortified with vitamins and minerals. For each nutrient an appropriate level of fortificant should be determined. This should ensure that there is no risk of over consumption but also that there is sufficient levels of the nutrients to address the deficiency or health need.

While ACA understands the reason for the differentiation between mandatory and voluntary fortification in the consultation paper, in ACA's opinion the principles for both types of fortification should be the same, apart from the obvious fact that the

government mandates the addition of vitamins and minerals in mandatory fortification; while under voluntary fortification the final decision to fortify (within specific parameters) is made by individual manufacturers. Therefore, the key distinction between mandatory and voluntary fortification should simply be the significance of the demonstrated need. Is it serious enough to warrant mandatory fortification or will voluntary fortification be enough to address the problem?

The parameters given for mandatory fortification are also relevant to voluntary fortification. Policy on voluntarily fortification should:

- encourage a well balanced and nutritious diet and be consistent with nutrition policy and dietary guidelines
- specify safe and appropriate upper and lower fortificant levels
- determine appropriate food vehicles for each fortificant
- require bioavailability of the fortificant

If a food is fortified with a vitamin or mineral that is not bioavailable then it will not be effective in addressing a demonstrated health need, and will mislead consumers as to the health benefits associated with consumers. Unless the nutrient is bioavailable there is no health benefit in fortifying.

ACA does not believe that a 'potential' health benefit is sufficient reason to permit voluntary fortification. There must be a demonstrated need and evidence that voluntary fortification will address this. The 'potential' to improve health should not be a principle for fortification. There is a significant difference between a potential health benefit and a demonstrated health benefit and the implication of fortifying foods based on potential health benefits will be troublesome as invariably, any vitamin or mineral could potentially provide a health benefit but benefit may not be proven. This rationale could lead to the fortification of a wide variety of foods without sufficient evidence that there is a nutritional deficiency or that it will bring about any health benefit.

While ACA agrees with the proposed rationale for mandatory fortification we feel that the specific principles for mandatory fortification should also refer to the Codex principles for fortification. Where evidence suggests that a demonstrated deficiency or health problem is significant and that mandatory fortification is shown to be an appropriate and successful method of addressing the need, governments should have the capacity to mandate fortification of specific foods, within the parameters outlined in the consultation paper. What will be particularly important is the criteria for and method of determining the significance of the need.

Food Vehicles

Food vehicles must be consistent with national nutrition policies and dietary guidelines to avoid products of poor nutritional value becoming a good source of certain vitamins and minerals. For example, soft drinks should not be fortified, as they are generally high in sugar and kilojoules. Fortification of soft drink might imply that it is a 'healthy' food, and associated labelling and marketing could encourage consumers, both adults and children, to drink soft drink in an attempt to increase their vitamin and mineral intake, despite the high sugar and kilojoule content.

The decision about which foods to fortify should be based on the fact that the target population, with the nutritional deficiency or demonstrated need, consumes that food to such an extent that it will significantly increase their intake of the nutrient in question and address their health needs associated with the deficiency. Authorities

must also take into consideration the level of fortificant to be added. The level added must be sufficient to be effective in meeting the demonstrated need but at the same time should not create the risk of over-consumption of a nutrient. Not only does the level of fortificant need to be set for specific foods, but authorities also need to consider the range of foods that can be fortified with specific nutrients. The greater the range of foods that can be fortified the higher the risk of excessive consumption of nutrients. The food regulator can also expect a series of applications to fortify various products over the coming years, and authorities need to consider these changes in the food supply when undertaking dietary modelling exercises.

Unfortunately, the lack of current Australian consumption data severely hampers the ability of authorities to accurately estimate consumption of nutrients in target population groups. The most recent data, the National Nutrition Survey 1995, is nearly a decade old and at this stage there are no known plans to update this data. Over this time there have been many changes and innovations in the food industry and also in nutrition and dietetic knowledge. ACA encourages further nutrition surveillance, not only to assist in the development of fortification policy but the development of food policy and standards in other areas.

Consumers Implications

One of the most important key public health issues omitted from discussion is the fact that widespread fortification could severely distort consumers' perceptions of nutrition and what constitutes a healthy diet. This could undermine genuine public health attempts to improve the health and nutrition. With this in mind it is worthwhile acknowledging the reason for fortification in each instance. While governments may mandate fortification in an attempt to address a significant nutritional deficiency or health problem, manufacturers' decision to voluntarily fortify food is ultimately a business or marketing decision. Manufacturers will assess whether fortification will provide them with new marketing opportunities by adding vitamins and minerals to their products and marketing them to consumers based on the presence of these added nutrients. Manufacturers will need to consider whether it is cost effective to add nutrients to their product and how much consumers are prepared to pay for the fortified product. Presumably, a decision to mandatory fortify will be based on the fact that there is a demonstrated nutritional need and that there is substantial scientific and public health evidence to support fortification as a method of addressing this need. ACA believes that the same level of evidence must also exist to support voluntary fortification

If fortification is permitted beyond the Codex principles consumers will be faced with a wealth of products heavily promoting the presence of the fortificant. Consumers will feel that they need these specific (inevitably, highly processed) products in order to be healthy when in reality they could be obtaining these vitamins and minerals from a variety of fresh foods such as fruits and vegetables, dairy products, cereals and meats etc. For example, orange juice is not a good source of calcium. However, if manufacturers were permitted to fortify orange juice with calcium we may begin to see a range of juices fortified with calcium. In the future, this may lead consumers to believe that all orange juice is a good source of calcium when in reality only fortified juices are a source of calcium.

While the paper discusses the need to educate consumers on how to use voluntarily fortified foods appropriately, too much emphasis should not be placed on consumer education. No consumer education will ever compare with the persuasive marketing techniques that are often used to convince consumers that they need a particular

product. Fortification policy must protect consumers from inappropriate voluntary fortification and ensure that any marketing or labelling does not mislead consumers about the virtues of a product either in its own right or when compared to other products. It could be argued that money spent on the regulating fortification and enforcing fortification standards could be better spent on educating consumers how to consume nutrients from their traditional sources such as fresh fruits and vegetables, meat, fish, poultry, legumes, dairy products, or dairy substitutes, and breads and cereal products. Rather than educating consumers on how to consume fortified foods appropriately and how to avoid being misled by claims about fortified foods, better nutrition education and promotion of dietary guidelines and healthy eating could be just as effective.

As outlined in the Consultation Paper some consumers are still confused about how to use nutrition information panels. In a recent FSANZ consumer survey, participants were asked to compare the nutrition information panels of two similar products and choose which one was the 'healthier' product. In the majority of cases consumers chose incorrectly because they did not use the appropriate information to make their choice. While it was encouraging to see that on their second attempt, after they were educated about what information to use, more consumers were able to correctly identify the 'healthy' choice. It does not negate the message that consumers have difficulty using food labels and this can lead them to make 'unhealthy' food choices. Fortification of a wide range of foods could potentially add to this confusion.

The consultation paper states that consumer choice is the key driver for voluntary fortification. Increased choice should not be the driving force behind fortification, mandatory or voluntary. The driving force behind voluntary fortification should be demonstrated health need, restoration or nutrition equivalence. While liberal fortification policy will provide consumers with an increased range of products this does not necessarily outweigh the risks associated with fortifying foods based on 'potential health benefits' or minimal risks to public health and safety. While increased choice may be a benefit it should not be a key driver for fortification. Consumers have a vast array of food products to choose from, capable of meeting everyone's nutritional requirements. Others are highly processed and of poor nutritional value, contributing to the rise of diet related conditions such as obesity, diabetes and heart disease. Greater variety is not the answer.

When consumers are choosing a food product they must be aware if the product is fortified with vitamins and minerals. If the food is fortified then the label must specify the amount of the fortificant in the final product and the % of the RDI they are consuming. Where a claim is made about vitamin and mineral content the claim should specify whether it is a natural source of the nutrient or if it has been fortified. These labelling requirements should apply to both mandatory and voluntary fortification.

Food Industry Implications

It is difficult to discuss the issue of fortification without considering policy on food-type dietary supplements (FTDS) and health claims. ACA believes that fortification standards must apply to any food to which vitamins and minerals are added, regardless of whether it is considered a food-type dietary supplement or a general fortified food. Should more liberal criteria apply to food-type dietary supplements, there is the chance that manufacturers will choose to market their product as a food-type dietary supplement in order to get around fortification policy that they feel is restrictive. Currently, FTDS are imported into Australia from New Zealand because

the Food Standards Code will not permit them to be produced in Australia. Recently, we have also seen one beverage manufacturer make a fortified water beverage under the supplementary sports food standard (Standard 2.9.4) even though it is not marketed as a supplementary sports food. ACA suspects that the reason for doing this is that it would be too time consuming to await approval to fortify water with vitamins and minerals under Standard 1.3.2. Producing the water under Standard 2.9.4 allowed the manufacturer to get the product into the marketplace and reap the economic benefits as quickly as possible.

An upcoming article in CHOICE magazine looks at these types of waters and concludes that unless you are an elite athlete or exercising at moderate to high intensity for at least an hour, sports water is not necessary. Fortified waters are also no match for fruits and vegetables when it comes to significantly increasing your vitamins and mineral intake. Yet marketing campaigns imply that average consumers need these products to function at their best. This is a clear example of why regulation of health claims, fortification and food-type dietary supplements cannot be considered individually but it also shows that in many cases decisions on product development and innovation is not primarily about improving the health of consumers, but about establishing a new and possibly niche product in order to gain a competitive marketing and financial edge.

It is for this reason that Ministers must take the strict and comprehensive approach to fortification (as well as health claims and FTDS). A comprehensive policy will prevent loopholes in the Food Standards Codes such as that sports water example mentioned above. ACA acknowledges that there are many fortified foods already on the market and limiting food vehicles to those that are consistent with nutrition policies and dietary guidelines will mean that a number of products currently fortified with vitamins and minerals would no longer comply. However, policy should not be developed around the existing market. It is inevitable that some products will not comply and these products must eventually be withdrawn from sale.

Policy Options

ACA does not support any of the proposed options as presented in the Discussion Paper. Instead, ACA favours a policy which lies somewhere between Option 1 and 2. While ACA supports restoration and nutritional equivalence as principles for fortification, Option 1 does not address the important principle of demonstrated need. While Option 2 permits fortification where potential population nutritional benefit can be demonstrated, ACA feels that the use of the word 'potential' makes this option too liberal, opening the floodgates for a deluge of products fortified on the basis that they might possibly provide some benefit, with little or no evidence to support the fortification. Instead, nutritional deficiency or health need must be demonstrated.

ACA is strongly opposed Option 3 based on minimal risk to public health. Should this be the principle on which fortification standards are developed, concerns raised in this submission would be magnified, eg. the impact on consumers understanding of a healthy nutritious diet. Lack of health risk is not a sufficient reason to warrant fortification. There must be a demonstrated need. In addition, such a liberal fortification policy would not address the second and third objectives of FSANZ that allows consumers to make informed choices and prevent consumers from misleading and deceptive conduct.

Summary

In summary, ACA supports a fortification policy for both mandatory and voluntary fortification, consistent with Codex principles as outlined below.

- a) Restoration of vitamins and minerals lost during processing
- b) Nutritional equivalence of substitute foods
- c) A nutritional deficiency or health need can be demonstrated
- d) Food vehicles appropriate for target population
- e) Consistency with national nutrition policy and dietary guidelines
- f) Fortificant is added at levels that are safe and efficacious
- g) The added nutrient must be bioavailable

ACA does not support fortification policy (mandatory or voluntary) that permits addition of vitamins and minerals to a wide range of foods on the basis that they provide a 'potential' health benefit, or where there is minimal risk to public health and safety. Once again, I thank you for the opportunity to comment on this consultation paper and trust that the Australian Consumers' Association's views and concerns are considered during the next stage of this policy development process. I also urge Ministers and Committee members to consider the impact that health claim policy and food-type dietary supplement policy will have on fortification policy, and vice versa. Should you wish to discuss further any of the issues raised in this submission please do not hesitate to contact Clare Hughes, food policy officer on (02) 9577 3375 or at chughes@choice.com.au.