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SUBMISSION BY THE NEW ZEALAND BEVERAGE COUNCIL

Consultation Paper – Proposal P1030: Composition and Labelling of Electrolyte Drinks

INTRODUCTION

The New Zealand Beverage Council (NZBC) is the industry association representing New Zealand's non-alcoholic beverage sector. Our members are the brand owners, manufacturers, bottlers and suppliers of New Zealand's juice, carbonated drinks, electrolyte drinks, flavoured-dairy and bottled water brands. Our membership is made up of a wide range of companies operating in New Zealand – from some of the largest multinational brands in the world through to some the country's smallest boutique producers, as well as those companies that provide a wide range of goods and services to those companies.

We frequently engage with Food Standards Australia New Zealand (FSANZ) and other regulatory bodies involved with the regulation, safety, sustainability and sale of food and beverages both domestically in New Zealand and exported internationally.

We are writing to make some additional comments on the *Consultation Paper- Proposal P1030: Composition and Labelling of Electrolyte Drinks* and wish to demonstrate our strong support and alignment for the submission presented by our Australian counterparts, the Australian Beverages Council (ABCL).

NZBC SUPPORTS ELECTROLYTE DRINKS REGULATION CONTINUING UNDER STANDARD 2.6.2

The New Zealand Beverage Council supports the proposed approach to continue the regulation of electrolyte drinks within Standard 2.6.2 - *Non-alcoholic beverages and brewed soft drinks*. However, we believe that the proposed definition is limiting.

The NZBC does not support the proposed definition for electrolyte drinks as:

'electrolyte drink means a drink formulated for the rapid replacement of fluid and electrolytes during or after 60 minutes or more of sustained strenuous physical activity'.

The NZBC is concerned about the following proposed amendments to the definition:

1. No reference to the formulation of electrolyte drinks for the rapid replacement of carbohydrates, in addition to fluid and electrolytes.
2. No reference to the consumption of electrolyte drinks pre-exercise, in addition to during or after exercise.
3. Suggestion that electrolyte drinks must only be consumed when '60 minutes or more' of sustained strenuous physical activity is completed.

The NZBC supports the following amendments proposed by the Australian Beverages Council, with scientific evidence to support these positions:

1. Include carbohydrates in the definition of electrolyte drinks.
2. Include 'pre-exercise' as a time at which electrolyte drinks may be consumed.
3. Remove '60 minutes or more' limitation.

Additionally, the NZBC supports the ABCL's recommended definition for electrolyte drinks: *'electrolyte drink means a drink formulated for the rapid replacement of fluid, carbohydrates and electrolytes before, during or after sustained strenuous physical activity'*.

NZBC REJECTS THE PROPOSED APPROACH TO PROHIBITING NUTRITIONAL CONTENT CLAIMS

The NZBC is aligned with the Australian Beverages Council in rejecting the proposed approach to prohibit all nutrition content claims for electrolyte drinks except for claims relevant to the carbohydrate, sugar or sugars, energy and the prescribed electrolytes (calcium, sodium, magnesium, potassium and chloride) content.

This proposal is particularly concerning as currently there is no other food or beverage category in the Food Standards Code that is subject to prohibitions on making nutrition content claims. It is unclear and questionable as to why electrolyte drinks are subject to such extensive restrictions in addition to the requirements of including consumption statements to provide clarity of intended purpose to consumers.

The New Zealand Beverage Council recommends that there are no restrictions on nutrition content claims for electrolyte drinks.

GENERAL LEVEL HEALTH CLAIMS UNDER STANDARD 2.6.2

Standard 2.6.2 –(12)(3) permits the label on a package of isotonic electrolyte drink to include the words to the effect that:

'the product is designed to promote the availability of energy and to prevent or treat mild dehydration that may occur as a result of sustained strenuous exercise.'

HYDRATION AND REHYDRATION CLAIMS

In principle, the NZBC supports the proposed three pre-approved general level health claims for electrolyte drinks to recognise their intended purpose relating to hydration during strenuous physical activity; rehydration after strenuous physical activity; and hydration to maintain performance and that requirements in Standard 1.2.7 do not apply to making these health claims.

However, the NZBC does not support the following condition noted in the consultation paper relating to each of the pre-approved claims:

‘Each claim would be required to refer to effects occurring under conditions of strenuous physical activity for a minimum time period of 60 minutes.’

This proposed statement is overly prescriptive and that the requirement to provide consumption context could be appropriately achieved by referring to conditions as ‘sustained strenuous physical activity’.

The NZBC supports the recommendation presented by the ABCL for the removal of any reference to a minimum time period of ‘60 minutes or more’ and that the condition be amended to the following: *‘Each claim would be required to refer to effects occurring under conditions of sustained strenuous physical activity’*.

SELF-SUBSTANTIATED CLAIMS

The NZBC strongly rejects the prohibition of self-substantiated claims on electrolyte drinks. The process to self-substantiate a food-health relationship incentivises industry to reformulate, provide broader consumer choice and respond to evolving consumers needs and public health policy recommendations. By preventing the ability of industry to pursue this process significantly disadvantages these products over any other product category regulated by the Food Standards Code and will ultimately limit innovation within this category. Furthermore, self-substantiated claims are viewed by manufacturers as an opportunity to differentiate their product in the market and require significant time and resource to complete. We do not believe there is legitimate rationale for prohibiting self-substantiated claims on electrolyte drinks and believes this would lead to further limitations under the Code on other product categories in the future.

NZBC DOES NOT SUPPORT A 12 MONTH TRANSITION PERIOD

The NZBC does not believe that a 12-month transition period, including stock-in-trade, is an appropriate period of time given all the other labelling changes that are underway or expected. Upcoming labelling changes, such as Health Star Rating and Plain English Allergen Labelling, have at least a two-year transition period, plus an additional 12-month stock-in-trade. Our view is that any labelling changes for P1030 should adhere to the same conditions.

CONCLUSION

Thank you for taking the time to consider the New Zealand Beverage Council’s position on *Proposal P1030*. We wish to reiterate our support and alignment with our Australian counterpart’s submission (Australian Beverages Council). Please do not hesitate to contact me should you require any further information.

Yours sincerely,

