

# **New Zealand Nutrition and Health Claims Baseline Survey 2014/15**

During transition to Standard 1.2.7 Survey of Nutrition, Health and  
Related Claims used on packaged foods in New Zealand.

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# 1 Background

## 1.1 Research Goal

The goal of this research was to collect qualitative and quantitative information on nutrition content claims and health claims made on food products available for retail sale in New Zealand during 2014/15.

The primary purpose was that this information would be used by the Ministry for Primary Industries (MPI), to create a baseline to compare against, post-implementation, as one way of evaluating the impact of Standard 1.2.7. Note: a post-implementation comparison survey is now available [here](#). We aimed to determine not only the level of uptake of claims, but also what categories of food they appear in and what are the types and nature of claims made.

The secondary purpose was to use the information to inform other regulatory functions, including supporting the development of guidance and communications material for industry, Food Act Officers and consumers, and to inform the methodology of the ISFR Co-ordinated Compliance survey for Australia, planned for post-transition to Standard 1.2.7.

## 1.2 Primary Research Objectives

1. Undertake a survey of food products across different product categories available for retail sale in New Zealand in 2014/15.
2. Identify any nutrition content claims, health claims or related claims made on the product label.
3. Determine whether of the claims identified meet the requirements of Standard 1.2.7 (and Standard 1.2.8 where claims trigger requirements under 1.2.8). Note the version of the Standards used were dated as at October 2014).
4. Outline the type and number of nutrition content, health and related claims made.
5. Analyse and document findings.
6. Develop a communications strategy and inform stakeholders of findings.

## 1.3 Background on Standard 1.2.7

Standard 1.2.7 - Nutrition, Health and Related Claims of the Australia New Zealand Food Standards Code, sets out new rules to regulate health claims and nutrition content claims.

This Standard was introduced in 2013 after over a decade of development and consultation, with a transition period of three years. During the transition period health claims must comply with either Standard 1.2.7 or Standard 1.1A.2 – Transitional Standard for Health Claims.

Standard 1.2.7 presents a significant change in the regulation of health claims and nutrition content claims in New Zealand and Australia. It provides clarity on what claims are acceptable and the conditions to meet when making such claims. It also provides a framework for food businesses to follow if they choose to substantiate their own food-health relationship, which facilitates innovation in the food sector.

The following claims are provided for in Standard 1.2.7:

*Nutrition content claims* are claims about the presence or absence of certain nutrients or substances in a food. These claims will need to meet certain criteria set out in the Standard. For example, for a 'good source of calcium' claim, the food must contain at least the amount of calcium specified in the Standard. *Health claims* refer to a relationship between a food and health/function rather than a statement of content. There are two types of health claims:

- *General level health claims* refer to a nutrient or substance in a food and its effect on a health function. They must not refer to a serious disease or to a biomarker of a serious disease. For example: '*calcium is necessary for normal bone and teeth structure*'.
- *High level health claims* refer to a nutrient or substance in a food and its relationship to a serious disease or to a biomarker of a serious disease. For example: '*diets high in calcium may reduce the risk of osteoporosis in people 65 years and over*'. An example of a biomarker health claim is: '*phytosterols may reduce blood cholesterol*'.

## 2 Methodology

### 2.1 Identification of food groups

Nutritrack<sup>1</sup> was utilised as a means of identifying food products to include in the survey across the food product categories. This survey was limited to product information collected in 2014.

Nutritrack is an online inventory of manufactured and packaged foods. In 2014 this represented approximately 80% of foods available for retail sale in four key supermarkets in New Zealand (Pak n Save, Countdown, New World and Four Square). Data is collected from Auckland-based stores, and is uploaded into an online tool accessible by MPI. It provides labelling, nutrition and ingredient information as displayed on the product label and stores images of these products for future reference. Products in Nutritrack are categorised into 15 high level food categories including:

- bread and bakery products
- cereal and cereal products
- confectionery
- convenience foods
- dairy
- eggs
- edible oils
- fruit and vegetables (packaged)
- meat and meat products
- non-alcoholic beverages
- sauces and spreads
- special purpose foods
- seafood
- snack foods
- sugars and honey

As at July 2014, 14,191 products were collected and reported in Nutritrack.

The majority of food product categories identified in Nutritrack were used except for infant formula products, which were the focus of a separate survey.

In addition, products from two key food groups that are not specifically included in Nutritrack were collected through a separate survey of relevant retail outlets. These included:

- fresh fruits and vegetables and
- alcoholic beverages.

Supplemented foods were an additional category initially considered, however these were collected and reported on separate to this survey.

### 2.2 Sample size for products in Nutritrack

It was determined that 600 products would be an appropriate number to sample to achieve a snapshot of the current health claims on the market within the limited resources and time constraints.

The sample size for each food category was determined by taking the total sample size (n=600) and proportionately calculating a sample size for each high level food category. For example, bread and bakery products represented 11% of the total number of foods in Nutritrack for 2014; therefore 11% (n=67) of the 600 products would be collected from this category. It was decided that at a minimum, 5

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<sup>1</sup> Nutritrack is a collection of labelling images from foods for retail sale, owned by the National Institute of Health and Innovation at the University of Auckland

products should be collected per category. For example, since a sample size of n=3 egg products was calculated, this was increased to n=5.

Final sample sizes for each food group are presented in Table 2.1.

## 2.2 Sample size for products in Nutritrack

It was determined that 600 products would be an appropriate number to sample to achieve a snapshot of the current health claims on the market within the limited resources and time constraints. This was also the number sampled in the baseline survey.

The sample size for each food category was determined by taking the total sample size (n=600) and proportionately calculating a sample size for each high level food category. For example, bread and bakery products represented 12% of the total number of foods in Nutritrack for 2016; therefore 12% (n=70) of the 600 products would be collected from this category. It was decided that at a minimum, five products should be collected per category. For the smallest category (eggs), a sample size of n=4 egg products was calculated, which was therefore increased to n=5.

Final sample sizes for each food group (and compared with the baseline survey figures) are presented in Table 2.1. The prescribed number of products were then randomly selected from each of the 15 high level food categories using a random number generator in Microsoft Excel.

**Table 2.1: Sample size of food product categories**

Food product categories from Nutritrack	Sample size (number)
Bread and bakery products	67
Cereal and cereal products	59
Confectionery	34
Convenience foods <sup>1</sup>	31
Dairy	75
Edible oils and oil emulsions	13
Eggs	5
Fish and seafood products	21
Fruit and vegetables – packaged <sup>2</sup>	75
Meat and meat products	46
Non-alcoholic beverages	57
Sauces and spreads	75
Snackfoods	16
Special purpose foods <sup>3</sup>	17
Sugars, honey and related products	12
Total	603 <sup>4</sup>

### Notes

1 Includes packaged ready-prepared meals and soups (frozen, canned and fresh).

2 Includes nuts, seeds and legumes as well as frozen, canned, preserved, dried and fresh labelled fruits and vegetables.

3 Includes sports foods, weaning foods, breakfast drinks, and some supplemented foods.

4 Due to rounding, 601 products were identified to be collected, not n=600 as initially planned. Two additional egg products were also included to ensure the minimum sample size of n=5 was met (hence final total of 603 products).

The prescribed number of products were then randomly selected from each of the 15 high level food categories using a random number generator in Microsoft Excel.

## 2.3 Sample size for products outside of Nutritrack

Labelling images of 40 unique alcoholic beverage products (including beer, wine, alcoholic ginger beer and cider only) were photographed across two Wellington-based supermarkets (one high-end and one value-based) in February 2015. These were selected by choosing every tenth product on display.

Labelling and advertising images of 20 unique fresh fruit and 20 unique fresh vegetable products were also photographed across two Wellington-based supermarkets (one high-end and one value-based) in February, 2015. These were selected by choosing every third product on display. This number was determined by counting each unique fruit and vegetable to calculate how many would be required to adequately survey the complete range.

**Table 2.2: Sample size of food product categories outside Nutritrack**

Categories	Sample size (n)
Alcoholic beverages	40 <sup>1</sup>
Fresh fruits and vegetables	40 <sup>2</sup>
Total	80

### Notes

1 Alcoholic beverage images were collected from two different supermarkets.

2 Fresh fruits and fresh vegetable images were collected from two different supermarkets.

## 2.4 Data collection

For products randomly selected from Nutritrack, where photo limitations occurred (such as blurred label images), an additional product was randomly selected from Nutritrack.

For the alcoholic beverages and fresh fruit and vegetable products, permission was sought and granted from the identified supermarkets via telephone.

For products from supermarkets, digital photographs were taken of the selected products' labels (all sides). Associated signage for fresh fruit and vegetables was also photographed. Photos were stored for later reference.

## 2.5 Information collected and recorded

The following information was collected from each of the 683 product labels and/or signage:

**Table 2.3: Information collected from each product label/signage**

Data collected	Information assessed as per checklist against requirements of Standard 1.2.7 and the related claim requirements under Standard 1.2.8 (Appendix 1)
Barcode (for Nutritrack items)	...
Category	...
Brand	...
Product name	...
Nutrient profiling score (NPSC) (where a health claim or GI?GL claim is made)	...
NPSC compliance (using <a href="#">FSANZ<sup>2</sup> calculator</a> )	...
Nutrition Content Claim(s) (NCCs)	✓
NCC compliance	✓
General level health claim (GLHC) – preapproved (and compliance)	✓
GLHC – requiring self-substantiation	✓
High level health claim (HLHC) – preapproved (and compliance)	✓
HLHC – requiring application and approval	✓
Therapeutic Claim(s)	✓

Ability to calculate an NPSC was limited without full information from manufacturers. Where incomplete or estimated calculations were made, this was noted. (The NPSC was not determined if the claim did not meet other requirements – i.e. not pre-approved or not self-substantiated and notified).

Claims initially identified as ‘unclear’ were subject to review and discussion by MPI staff to determine an agreed view.

A random selection of product assessments were internally peer reviewed. This involved every 50<sup>th</sup> product being independently assessed to ensure accurate assessments.

Assessment information was analysed and summarised to report the main findings by food category.

<sup>2</sup> Food Standards Australia and New Zealand

## 3 Overview of results

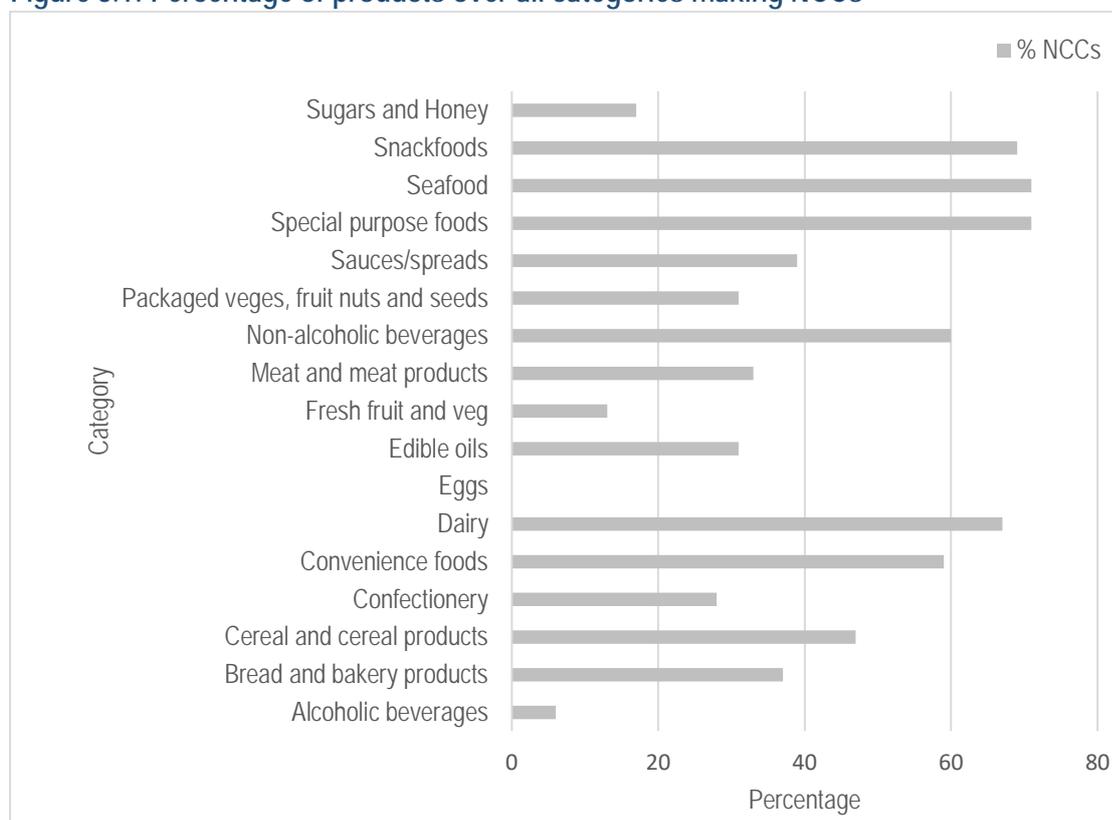
### 3.1 Nutrition Content Claims (NCCs)

In total, 683 products were assessed. Of these, 378 products had NCCs, though some of those had up to 15 different NCCs per pack.

In terms of the percentage of products making NCCs by category, snack foods, seafood, special purpose foods and dairy products made the most NCCs. The only category that did not make NCCs was eggs, while alcoholic beverages, sugars and honey and fresh fruit and vegetables made the fewest NCCs. This is illustrated in Figure 3.1 and data are provided in Appendix 2.

This is illustrated in Figure 3.1 and data are provided in Appendix 2.

Figure 3.1: Percentage of products over all categories making NCCs



In some cases, individual products made multiple NCCs. The maximum number of NCCs found on one product was 15 (on an edible oil product). Non-alcoholic beverages and cereal and cereal products also had up to 12 and 10 NCCs per product respectively.

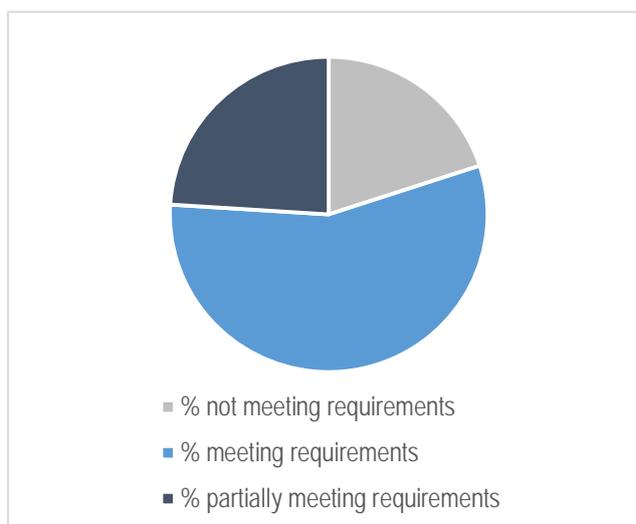
The majority of NCCs (57%) met the requirements of the Food Standards Code. Figures 2-17 show assessments against these requirements by food category. Please note all individual NCCs were either deemed to either meet or not meet requirements. "Partially meeting requirements" indicates when some, but not all of the NCCs per product met requirements. The food categories whose claims most frequently met requirements were packaged fruit and vegetables (Figure 3.8), seafood (Figure 3.14) and edible oils (Figure 3.7). The food categories whose claims least met requirements were sugars and honey, fresh fruits and vegetables and meat and meat products.

The most common reasons for not meeting the requirements of the Food Standards Code (specifically the incoming Std 1.2.7 and its interactions with Std 1.2.8) for NCCs overall included:

- no gluten declaration made in the Nutrition Information Panel (NIP) when making gluten free claims;
- comparative claims made with no reference product specified;
- no declaration of a variety of other (non-gluten) claimed properties in the NIP;
- non-specific claims made that did not meet the format for NCCs. For example, “rich in essential vitamins and minerals”;
- no Glycaemic Index (GI) number provided on the label where a glycaemic claim was made; and
- not meeting the requirements for a “fat free” claim.

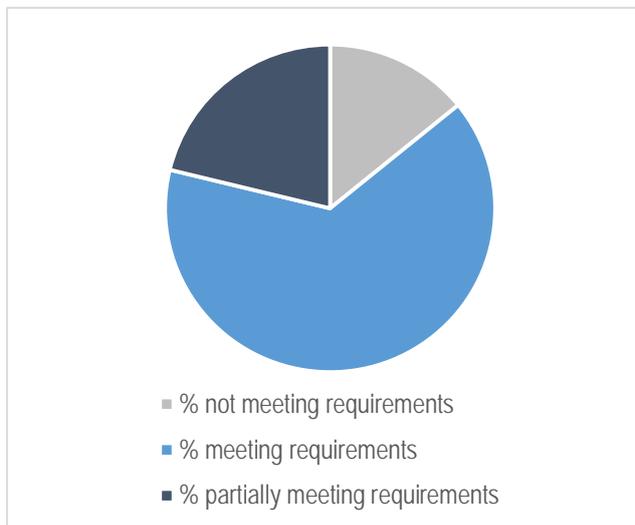
The most common reasons for non-compliance of NCCs within each category are provided beside each corresponding category graph (Figures 3.2-3.17).

**Figure 3.2: How NCCs on bread and bakery products met requirements**



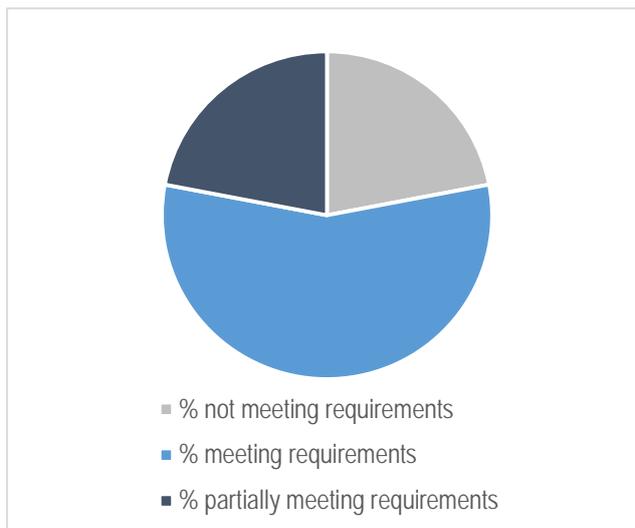
The main reason for NCCs on bread and bakery products not meeting requirements was the lack of a gluten declaration in the NIP when making gluten free claims. Also failure to meet required levels for fibre claims, the use of comparative claims with no reference product, non-specific claims (e.g. rich in essential vitamins and minerals), and no GI number provided for glycaemic claims.

Figure 3.3: How NCCs on cereal and cereal products met requirements



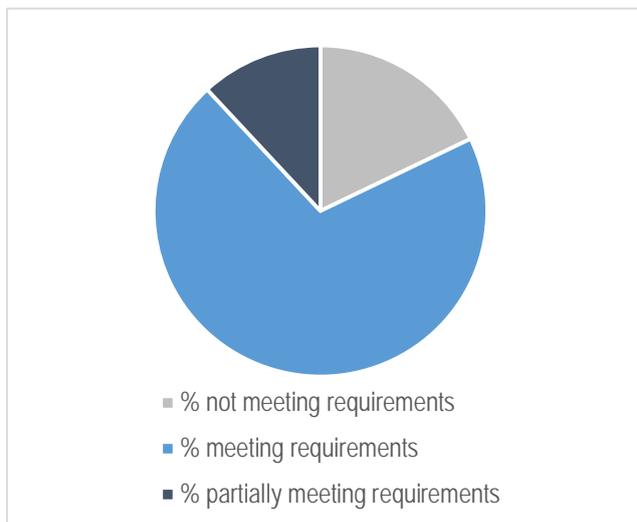
The main reason for NCCs on cereal and cereal products not meeting requirements was the lack of a gluten declaration in the NIP when making gluten free claims. Also failure to meet the required levels for fibre claims and the use of comparative claims with no reference product.

Figure 3.4: How NCCs on confectionery met requirements



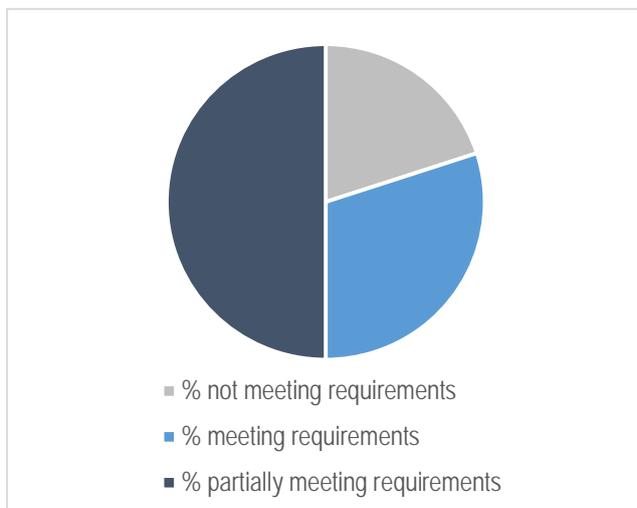
The main reason for NCCs on confectionery not meeting requirements was the lack of a gluten declaration in the NIP when making gluten free claims. Also a lack of fibre declaration in the NIP when a fibre claim was made, and no GI number provided for glycaemic claims.

Figure 3.5: How NCCs on convenience foods met requirements



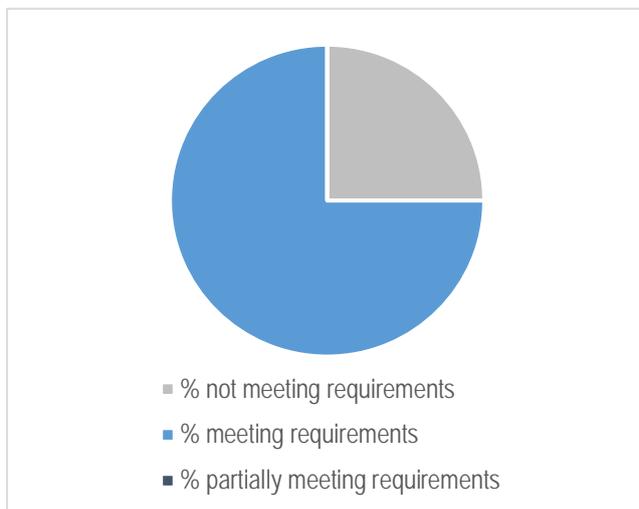
The main reason for NCCs on convenience foods not meeting requirements was the lack of a gluten declaration in the NIP when making gluten free claims. Also some did not meet the requirements to make a low fat claim.

Figure 3.6: How NCCs on dairy products met requirements



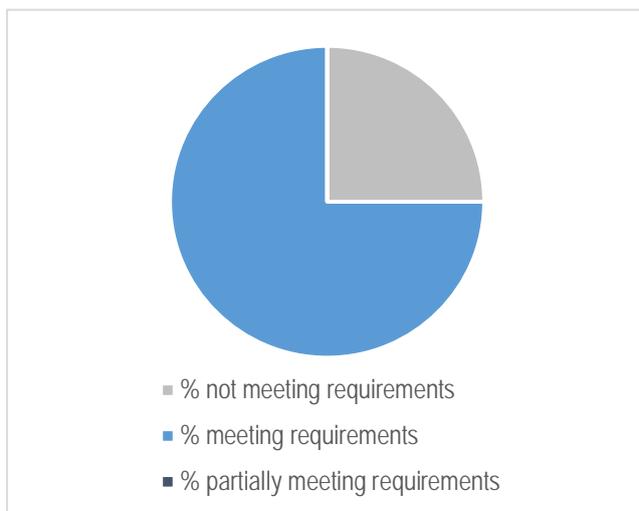
The main reason for NCCs on dairy products not meeting requirements was that a range of properties were claimed for that did not appear in the NIP (notably: probiotics, gluten free, fibre). Also the use of comparative claims with no reference product and not meeting the levels required to make claims such as "fat free".

Figure 3.7: How NCCs on edible oils met requirements



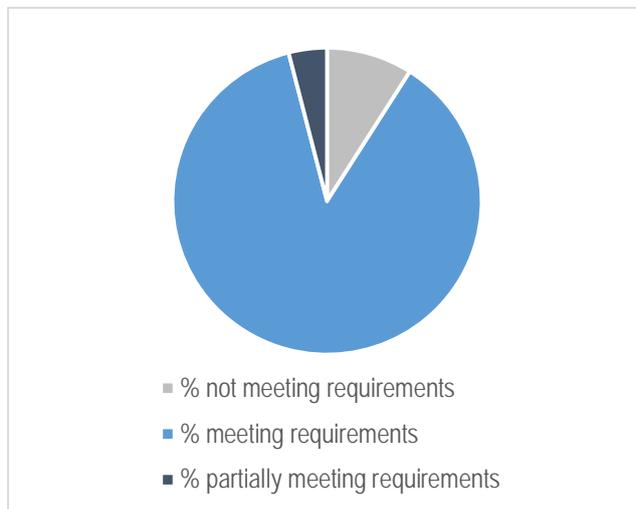
The main reason for NCCs on edible oils not meeting requirements was property claims that trigger a NIP requirement that is not met (e.g. sodium claim that does not list potassium in the NIP).

Figure 3.8: How NCCs on fresh fruits and vegetables met requirements



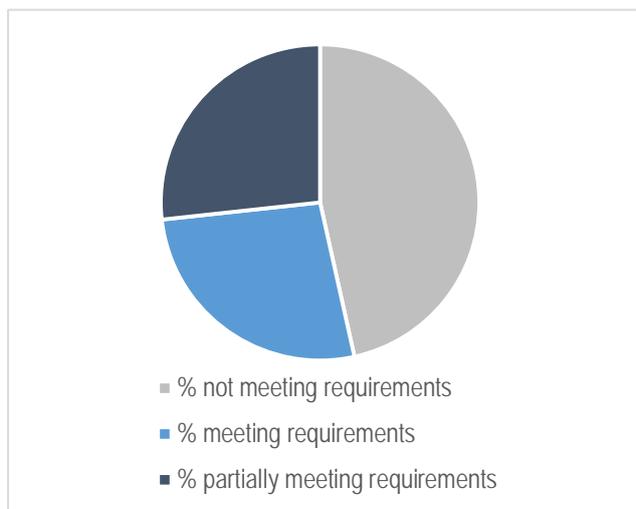
The main reason for NCCs on fresh fruits and vegetables not meeting requirements was the lack of an NIP on labels where claims are made. Also several products had inadequate levels of nutrients for which claims were made.

Figure 3.9: How NCCs on packaged fruits, vegetables nuts and seeds met requirements



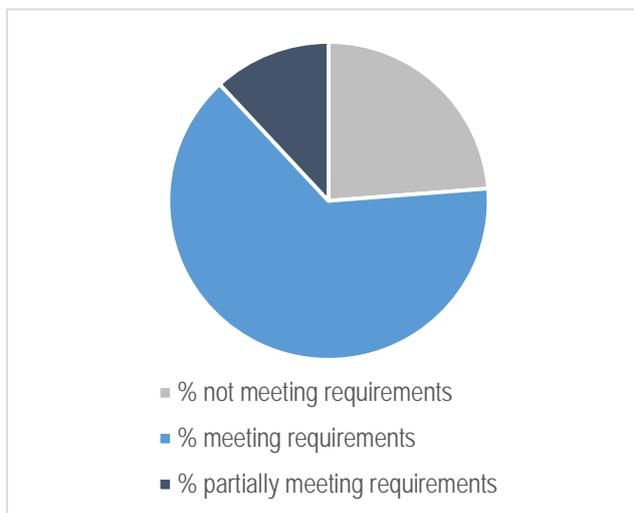
The main reason for NCCs on packaged fruits, vegetables, nuts and seeds not meeting requirements was the use of comparative claims without the reference product listed. Also there were some imported products with a non-compliant NIP format (not listing amounts of properties claimed), and "cholesterol free" claims not permitted.

Figure 3.10: How NCCs on meat and meat products met requirements



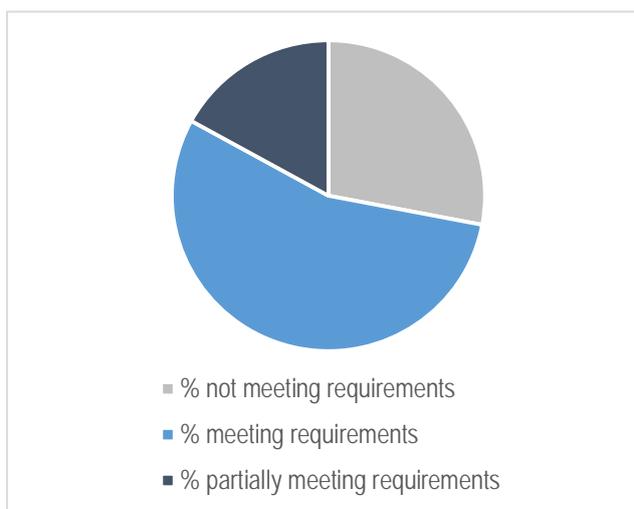
The main reason for NCCs on meat and meat products not meeting requirements was no gluten declaration in the NIP when making gluten free claims. Also some non-compliance regarding the level of protein required to make a "high in protein" claim, and comparative claims on lean-ness, with no reference product stated.

Figure 3.11: How NCCs on non-alcoholic beverages met requirements



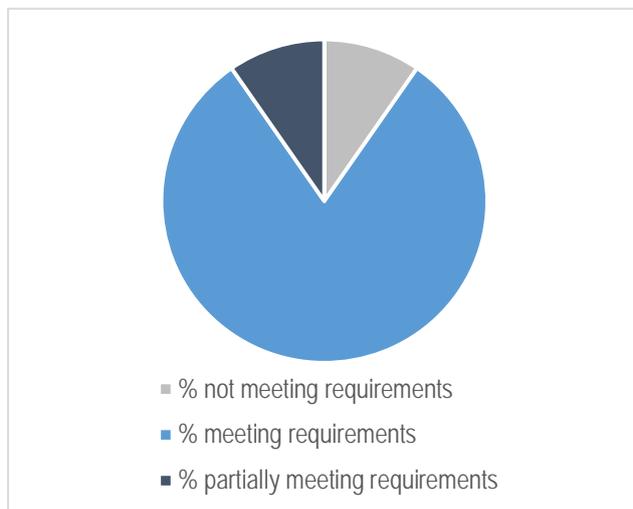
The main reason for NCCs on non-alcoholic beverages not meeting requirements was that various properties were claimed, but not listed in NIP (most commonly gluten free, caffeine and vitamins). Also some comparative claims were made with no reference product specified.

Figure 3.12: How NCCs on sauces and spreads met requirements



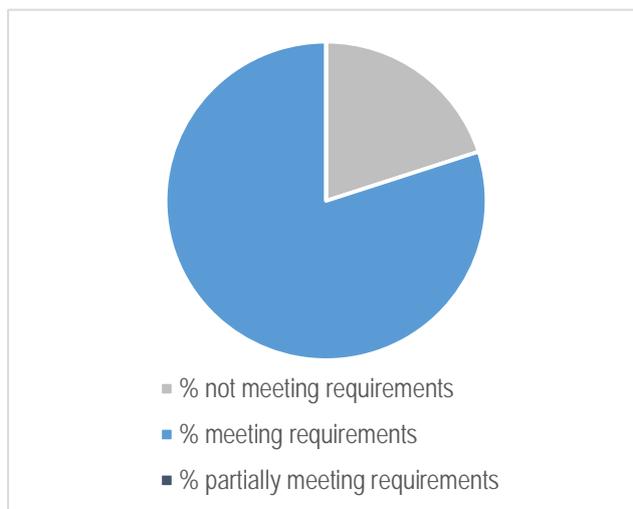
The main reason for NCCs on sauces and spreads not meeting requirements was no gluten declaration in the NIP when making gluten free claim. Other reasons included either making other nutrition claims with no corresponding NIP declaration or making comparative claims with no reference product specified.

Figure 3.13: How NCCs on special purpose foods met requirements



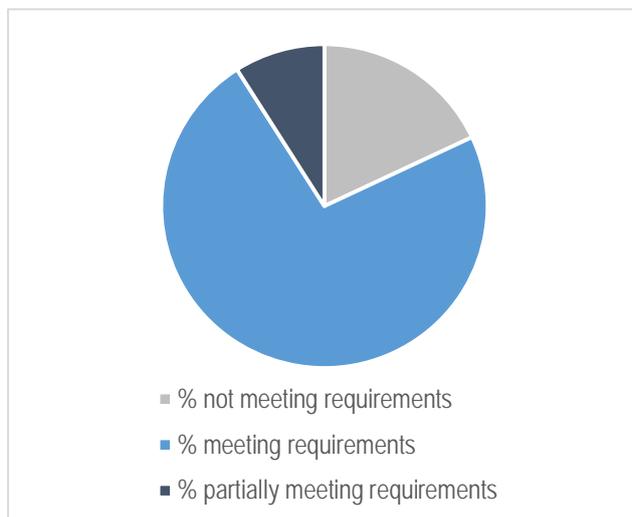
The main reasons for NCCs on special purpose foods not meeting requirements were divided equally between: not meeting the requirements for a “ fat-free” claim; no GI number provided for glycaemic claims; and a fibre claim with no fibre declaration in NIP. The unknown compliances involved “low carbohydrate” claims, since these are not specified in the standard.

Figure 3.14: How NCCs on seafood met requirements



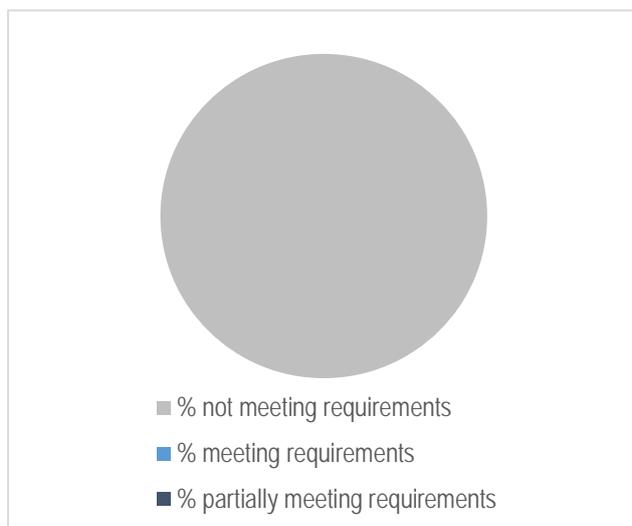
The main reason for NCCs on seafood not meeting requirements was no gluten declaration in the NIP when making gluten a free claim. There was also one non-compliant glycaemic claim.

Figure 3.15: How NCCs on snack foods met requirements



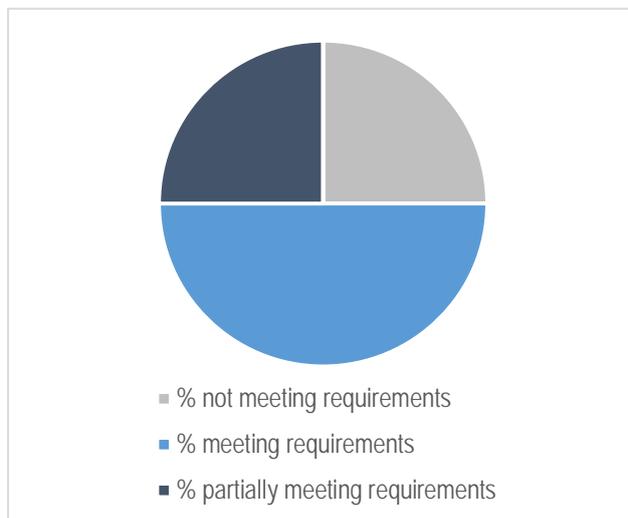
The main reason for NCCs on snackfoods not meeting requirements was no gluten declaration in the NIP when making a gluten free claim. There was also one non-compliant omega 3 content claim.

Figure 3.16: How NCCs on sugars and honey met requirements



The main reasons for NCCs on sugars and honey not meeting requirements were divided equally between: no gluten declaration in the NIP when making a gluten free claim, and not meeting the criteria for “low energy” claims. Only two NCCs were found in this category and both were non-compliant, so the 100 per cent lack of compliance in this category actually only refers to two individual NCCs.

Figure 3.17: How NCCs on alcoholic beverages met requirements



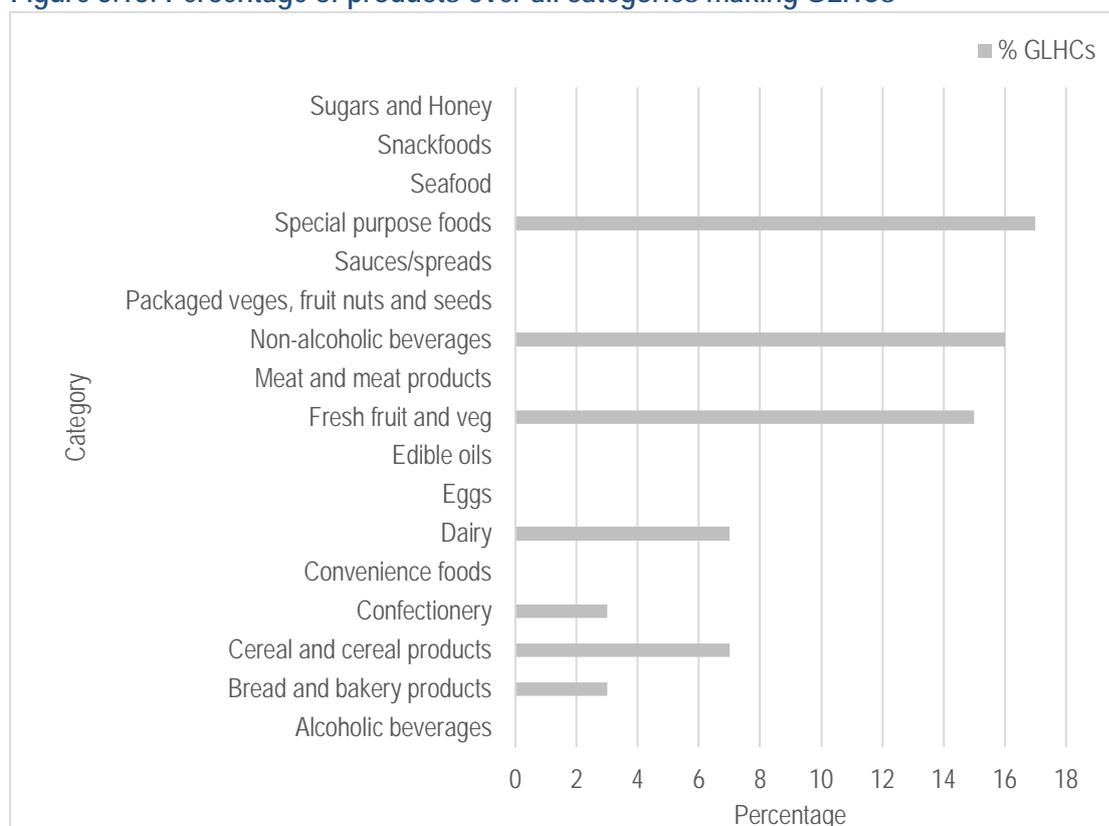
The main reason for NCCs on alcoholic beverages not meeting requirements was no NIP (when making nutrition content claims other than gluten free claims). The unknown compliances involved "low carbohydrate" claims, since these are not specified in the standard. It should be noted that nutrition content claims are limited to claims on energy and carbohydrate only.

### 3.2 General Level Health Claims (GLHCs)

Of the 683 products assessed, 34 products had GLHCs, though some of those had up to eight different GLHCs per pack. There were a total of total of 45 individual GLHCs found.

In terms of the percentage of products making GLHCs by food category, special purpose foods, non-alcoholic beverages and fresh fruits and vegetables made the most GLHCs. Many categories did not make GLHCs, and the only ones in which they were found were special purpose foods, non-alcoholic beverages, fresh fruits and vegetables, dairy products, cereal and cereal products, confectionery and bread and bakery products. Low numbers of claims were seen in the latter two categories. This is illustrated in Figure 3.18 and data are provided in Appendix 2.

Figure 3.18: Percentage of products over all categories making GLHCs



In some cases, individual products made multiple GLHCs. The maximum number of GLHCs found on one product was eight on a particular bread product. Fresh fruits and vegetables and cereal and cereal products also had up to five and four GLHCs per product respectively.

In terms of how the GLHCs met the requirements of Standard 1.2.7, no individual products were found to meet 100% of the requirements. While there were some individual GLHCs that met requirements, other GLHCs present on the same pack did not (i.e. the product was classified as partially meeting requirements).

Figures 3.19-3.25 show how the GLHCs seen met the requirements of Standard 1.2.7 by food category. Please note that all individual claims were either deemed to have met or not met the requirements. "Partially meeting requirements" indicates when some, but not all of the claims per product met requirements. The only categories which included some individual GLHCs that fully met the requirements were cereal and cereal products (Figure 3.20) and fresh fruit and vegetables (Figure 3.23).

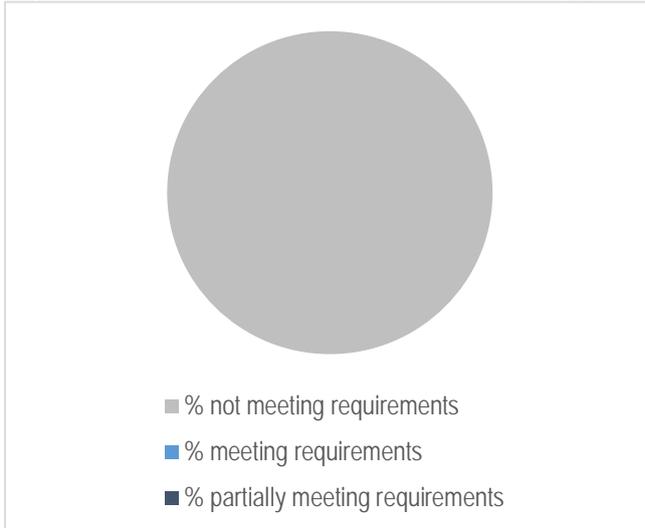
The most common reasons for GLHCs not meeting requirements of Standard 1.2.7 overall included:

- No dietary context statement provided. Some claims almost met requirements, but for the fact that no dietary context statement was provided.
- Implied health claims about energy, immunity, digestion, hydration, relaxation, mental performance and satiation that are not pre-approved or don't match the pre-approved specific effect.
- Use of general "healthy" claims that don't specify a specific food property or a pre-approved food health relationship.

- Some claims were made without providing enough information to fully assess (e.g. no NIP available on some fresh fruit and vegetables making claims).
- NPSC score too high to make claim (there was only one incidence of this).

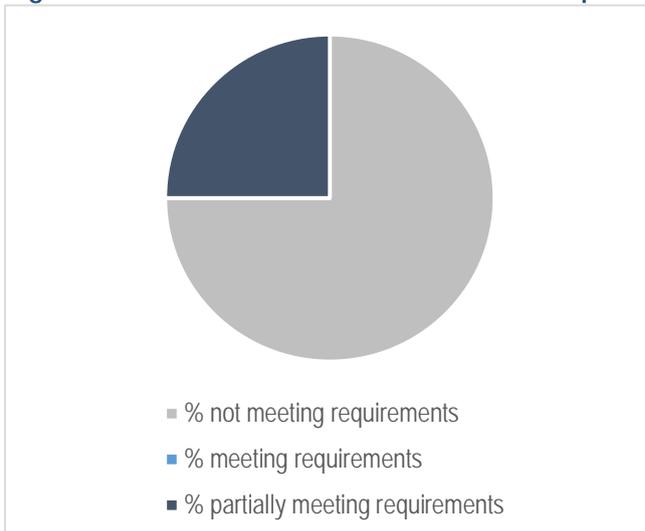
The most common reasons for GLHCs not meeting requirements within each category are provided beside each corresponding category graph (Figures 3.19-3.25).

**Figure 3.19: How GLHCs on bread and bakery products met requirements**



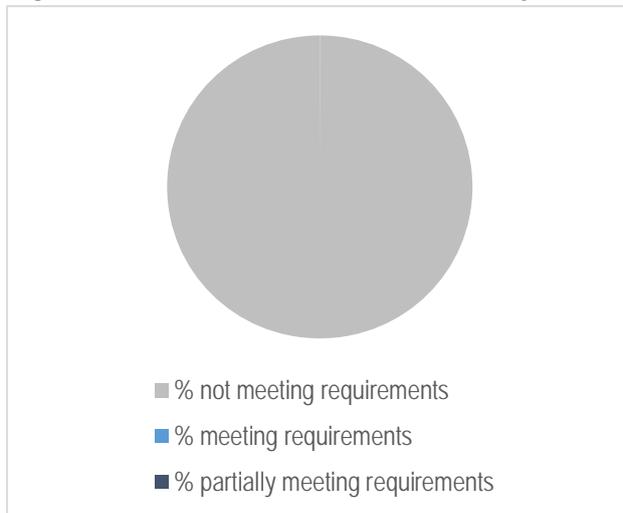
The main reasons for GLHCs in bread and bakery products not meeting requirements were those made around energy, immunity, digestion and satiation that were not pre-approved. There was also a high level of GLHCs being made without the required dietary context statements.

**Figure 3.20: How GLHCs on cereal and cereal products met requirements**



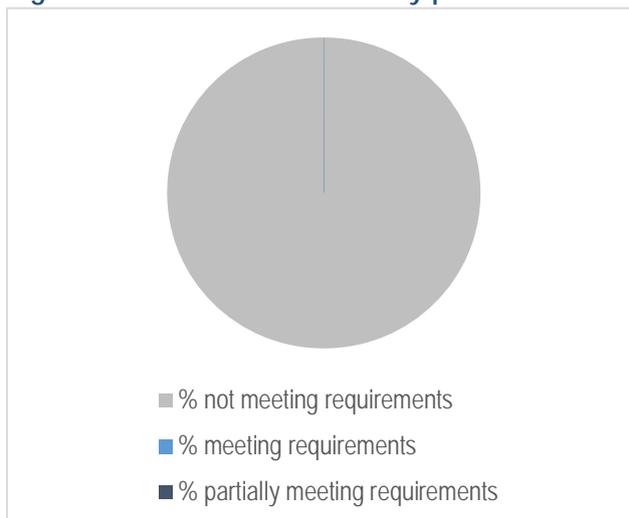
The main reasons for GLHCs on cereal and cereal products not meeting requirements were health claims about energy, fibre, iron, "B vitamins" and wholegrains which are not specific enough or not of equivalent meaning to the preapproved food health relationship. Most had no dietary context statement. Note some individual claims were compliant, but no one product had 100% compliant claims.

Figure 3.21: How GLHCs on confectionery met requirements



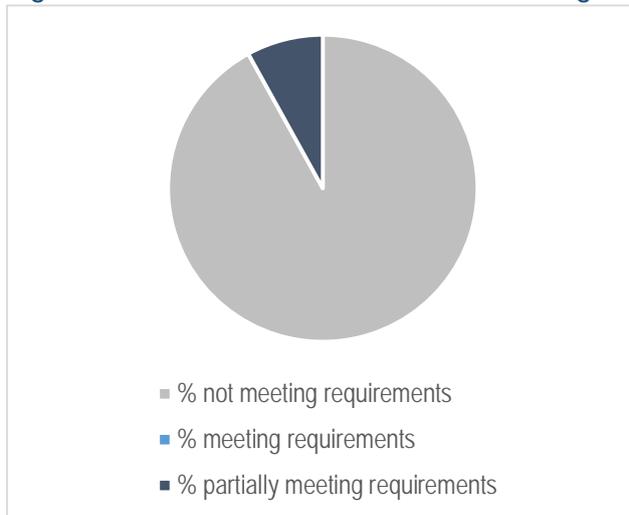
The main reason for GLHCs on confectionery not meeting requirements (there was only one individual claim) was that the NPSC score for the product was 18, so it was not eligible to make a GLHC.

Figure 3.22: How GLHCs on dairy products met requirements



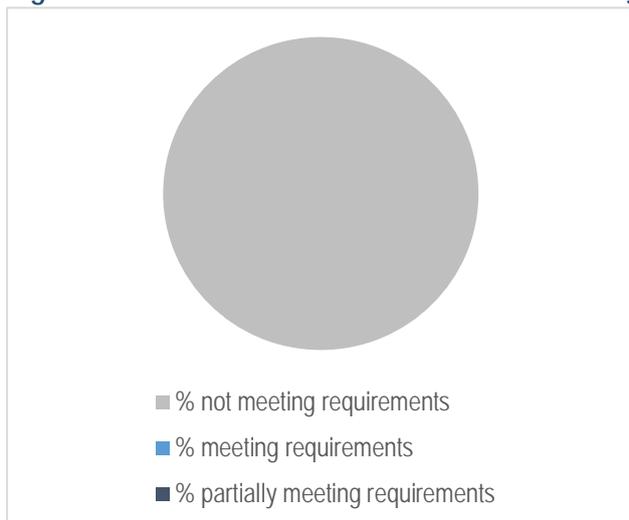
The main reasons for GLHCs on dairy products not meeting requirements were claims inferring digestive benefits that did not use a pre-approved food health relationship and have not been notified as self-substantiated food health relationships. Some claims used a pre-approved food health relationship (e.g. bone health claims for calcium and protein, but no dietary context statement was provided).

Figure 3.23: How GLHCs on fresh fruit and vegetables met requirements



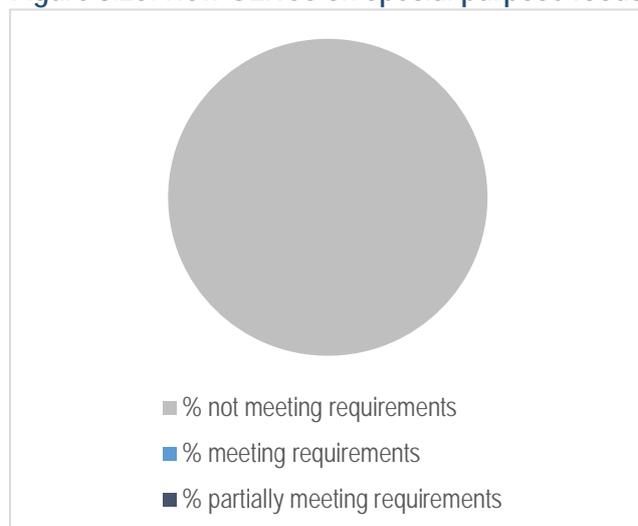
The main reasons for GLHCs on fresh fruits and vegetables not meeting requirements were the use of general "healthy" or "good for you" claims that didn't specify a specific food property, pre-approved food health relationship or provide a dietary context statement. Some labels didn't provide enough information to fully assess the claim (e.g. no NIP available with claimed items listed). Some claims were not based on a pre-approved food health relationship or notified self-substantiated relationship, with no dietary context statement provided.

Figure 3.24: How GLHCs on non-alcoholic beverages met requirements



The main reasons for GLHCs on non-alcoholic beverages not meeting requirements were the use of implied health claims, mainly about energy (but some about hydration, relaxation, mental performance), with no pre-approved food health relationship or notified self-substantiated relationship, where the property of the food responsible was also not stated and there was no dietary context statement provided.

Figure 3.25: How GLHCs on special purpose foods met requirements



The main reasons for GLHCs on special purpose foods not meeting requirements were both no pre-approved food-health relationship (or notified self-substantiated relationship) used, and no dietary context statement provided.

### 3.3 High Level Health Claims (HLHCs)

No HLHCs were found in the randomly selected sample of products included in this survey.

Type	Number
%DI thumbnails (often a range of individual nutrients)	156
Gluten free	115
Dietary Fibre	104
Vitamins (mostly vitamins C, E, 'B vitamins')	87
Minerals (mostly calcium, iron and zinc)	75
Fat (fat free or low fat)	55
Sugar (sugar free or no added sugars)	52
Protein (source of or high in)	38
Sodium (low)	26
Cholesterol (free)	17

While Table 3.1 shows the most common NCCs across all categories, some categories were more likely to use certain types of claims than others. For example:

- “dietary fibre” was most commonly claimed in cereals, convenience foods, and both packaged and fresh fruits and vegetables
- the mineral calcium was the most commonly claimed nutrient in dairy products
- “cholesterol (free)” was the most common claim in edible oils
- “omega 3 (source)” was the most common claim in fish and seafood
- “gluten free” was the most common claim made in both meat and meat products and sauces and spreads
- “protein (source of)” was most commonly claimed in special purpose foods
- “low energy” was most commonly claimed in alcoholic beverages.

#### NCCs - Comparisons with requirements of Food Standards Code

When compared against the requirements of the Food Standards Code, the majority of NCCs (85%) were assessed as being consistent with the requirements. This compares with 57% being consistent

with requirements in the baseline survey. Figure 3.2 shows the percentage of products making correct NCCs by food category, in comparison with the baseline survey. The food categories with the most correct claims were convenience foods (93%), bread and bakery products (92%), and packaged fruit and vegetables (90%). The least food categories with the least correct claims were eggs<sup>3</sup> (29%), sugars and honey (41%) and fresh fruits and vegetables (47%).

The reasons for NCCs not meeting the requirements included (in order from most to least frequent):

- Property claimed not at a sufficient level to meet requirements for claim (for example too high or too low to make the claim)
- co-requirements of Standard 1.2.8 not listed in the Nutrition Information Panel (NIP). For example:
  - no gluten<sup>4</sup> or lactose declaration made in the NIP when making gluten/lactose free claims;
  - no antioxidant/probiotic listed in the NIP when making a presence claim;
  - no listing of fibre in the NIP when making claims about sugar content; and
  - no listing of other fatty acids in the NIP when making an omega-3 fatty acid presence claim
- NIP in incorrect format
- comparative claims made (for example “lower sugar” with no reference product specified, for example “than our standard product”);
- using a descriptor for a property not listed in S4—3 for the Food Standards Code;
- NCCs not permitted on infant formula
- “sugar free” claims made on products with added concentrated fruit juice
- no NIP on alcohol when claims are made
- no obvious provision of NIP information when claims are made on unpackaged fruits and vegetables (by the retailer).

#### *Main reasons for incorrect NCCs by category*

The main reasons for NCCs not meeting the requirements of the Food Standards Code in specific food categories were similar to the reasons found in the baseline survey. Instances of comparative claims without specifying a reference product were fewer post-implementation than at baseline however. The following section outlines the main reasons for non-compliance within specific food categories.

##### *1. Bread and bakery products*

The main reason that NCCs did not meet requirements on bread and bakery products was the property being claimed not meeting the requirements for a claim (mainly fibre). The second most

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<sup>3</sup> It should be noted that due to the small sample size of egg products (n=5), the actual number of non-compliant claims made was not high (five out of seven total claims identified).

<sup>4</sup> The ISFR working group on health claims agrees the Food Standards Code requires a “gluten free” claim to be accompanied by a gluten declaration in the NIP, in numerical format (i.e. gluten 0g). However for the purposes of this survey, *gluten free* claims were considered incorrect only in instances where gluten wasn’t included in the NIP. Where gluten was listed in the NIP, with the words “nil detected” or “not detected”, these were considered correct. Of the 115 *gluten free* claims found, 71 were deemed compliant, and of these 42% expressed gluten in numerical format.

common reason was co-requirements of Standard 1.2.8 not being listed in the NIP, especially for gluten free claims.

2. *Cereal and cereal products*

The main reason that NCCs did not meet requirements on cereal and cereal products was the property being claimed not meeting the requirements for a claim (mainly dietary fibre). The second most common reason was co-requirements of Standard 1.2.8 not being listed in the NIP, especially for gluten free claims, antioxidant content claims and omega-3 content claims. The third most common reason was incorrect NIP format.

3. *Confectionery*

The main reason that NCCs did not meet requirements on confectionery was incorrect NIP format. All such instances related to imported products. The second most common reason was gluten not being listed in the NIP when gluten free claims are made and the third was that the property being claimed did not meet the requirements for a claim.

4. *Convenience foods*

The main reason that NCCs did not meet requirements on convenience foods was the lack of a gluten declaration in the NIP when making gluten free claims. The only other reason was the level not meeting the requirements to make a claim (i.e., "fat free" and "low Glycaemic Index").

5. *Dairy products*

The main reason that NCCs did not meet requirements on dairy products was that a range of properties were claimed for that did not appear in the NIP (notably: strain and levels of probiotics, gluten, "complex carbohydrates", antioxidants). Secondly a number of dairy products made comparative claims with no reference product specified (mainly "reduced fat"). Thirdly, claims were made about properties that were not present at a level required to make a claim (folic acid, low fat, calcium (on a soy yoghurt)).

6. *Edible oils*

The main reason that NCCs did not meet requirements on edible oils was property claims that trigger a NIP requirement that is not met (for example gluten/lactose free claims and claimed antioxidants not listed in the NIP). Secondly levels of properties claimed (eg, vitamin D, vitamin A and trans-fats) did not meet the requirements to make claims.

7. *Eggs*

The main reason that NCCs did not meet requirements on egg products was that the level of property claimed was insufficient for the claim requirements (ie, "source of calcium, retinol, folate and selenium and protein" all lower per serve than requirements).

8. *Fresh fruit and vegetables*

The main reason that NCCs did not meet requirements on fresh fruits and vegetables was the lack of a NIP on labels, or in conjunction with the product display where claims are made (often by the retailer not the supplier). Also several products had non-compliant NIP formats and some products used comparator claims (reduced fat) with no reference product specified. Finally some claims were made on products where the levels of properties (ie, dietary fibre) were insufficient to meet requirements and some products did not meet the co-requirements of claims (such as "trans-fat free" claims not resulting in other fatty acids being listed in the NIP).

9. *Packaged vegetables, fruit nuts and seeds*

The main reason that NCCs did not meet requirements on packaged fruits, vegetables, nuts and seeds was property claims that trigger a NIP requirement that is not met (eg, "gluten free claims", claimed antioxidants such as lycopene and claims of "high iron" and "high omega-3" not listed in the NIP). Also some claims were made on products where the levels of properties (ie, dietary fibre, protein) were insufficient to meet requirements. Finally there were some claims made that failed to list co-requirements in the NIP (eg, "low salt" claims have the co-requirement to list

potassium levels in the NIP).

10. *Meat and meat products NCCs*

The main reason that NCCs did not meet requirements on meat and meat products was no gluten declaration in the NIP when making gluten free claims. The same issue existed for lactose free claims, though this was not as common. Several claims were also made where the levels of the properties claimed were inadequate for the requirements. For example the claim of "96% fat free" is prohibited because only foods meeting the requirements for "low fat" can make "% free" claims and 4g/100g is too high for a "low fat" claim. In addition "rich in iron" claims require at least 3mg iron per 100g.

11. *Non-alcoholic beverages*

The main reason that NCCs did not meet requirements on non-alcoholic beverages was that various properties were claimed, but not listed in NIP (most commonly "gluten free", antioxidants and minerals). Some properties were claimed at levels that did not qualify for a claim (eg, "sugar free" or "no sugar"), and some co-requirements for claims were not met (eg, listing dietary fibre in the NIP when making sugar claims). Also some comparative claims were made with no reference product specified. Finally there were a number of imported labels in this category, which did not meet general labelling format requirements of the Food Standards Code.

12. *Sauces/spreads*

The main reason that NCCs did not meet requirements on sauces and spreads was no gluten declaration in the NIP when making "gluten free" claims. The only other reason was making other nutrition claims without listing the co-requirements in the NIP (eg, making claims on sugar content without listing dietary fibre content and making claims on salt/sodium without listing potassium level). Again, there were some imported labels in this category which did not meet general labelling format requirements of the Food Standards Code.

13. *Special purpose foods*

The main reason that NCCs did not meet requirements on special purpose foods was claims made for properties such as gluten and probiotics that did not list the corresponding levels in the NIP. The next most common reason was making claims for properties such as dietary fibre where the level was insufficient to meet claim requirements or claims such as "no added sugar" when concentrated fruit juice was included in the ingredients list. In addition claims were made for properties without co-requirements being listed (eg, sodium claims made without corresponding potassium levels listed, and similarly for sugar and dietary fibre). Finally, in infant formula products all claims are prohibited, and the survey identified some infant formula products making NCCs.

14. *Fish and seafood*

The main reason that NCCs did not meet requirements on seafood was the failure to list all co-requirements in the NIP when making an omega 3 claim (lack of other required fatty acid levels in the NIP). The only other non-compliance related to failure to list a reference product when making a comparative claim.

15. *Snackfoods*

The main reason that NCCs did not meet requirements on snackfoods was no gluten or probiotic declaration in the NIP when making a "gluten free" or "contains probiotics" claim. There were also some examples of the NIP being in an incorrect format, due to product being imported.

16. *Sugars, honey and related foods*

The main reason that NCCs did not meet requirements on sugars, honey and related foods were divided equally between: no NIP declarations when making claims such as "gluten free" and "contains antioxidants", and not meeting the criteria for making claims (eg, levels of claimed minerals not high enough to make claims). One stand-out non-compliant product made a number of content claims ("gluten free", "low GI", "rich in micronutrients", "full of amino acids, potassium, magnesium, zinc, iron and B vitamins") while none of these properties were listed in

the NIP and it was a type of sugar, so likely to have quite low levels of such essential micronutrients. Finally a number of products had an incorrect NIP format.

#### *17. Alcoholic beverages*

The main reason that NCCs did not meet requirements on alcoholic beverages was shared equally between no NIP (when making permitted nutrition content claims) and not listing a reference product when making a comparative claim (eg “lighter in calories”). It should be noted that NCCs on alcoholic beverages are limited to claims on energy, carbohydrate and gluten only according to the Standard and claims such as “lower” or “lighter in alcohol” are permitted as these claims are not considered NCCs.

### **3.4 Therapeutic Claims**

Only one therapeutic claim was found. This was “Choose health: a diet free of harmful chemicals helps prevent disease” (on an organic fruit product).

## 4 Discussion *and associated actions for MPI* including recommendations for future claims surveys

In this baseline survey we achieved our primary goal of collecting qualitative and quantitative information on NCCs and health claims made on food products available for retail sale in New Zealand during 2014/15. This included not only the level of uptake of claims, but also what categories of food they appeared in and what types and nature of claims were made.

The results of this survey provides MPI with baseline data and can be used to evaluate the impact of Standard 1.2.7 when the transition period has ended.

The secondary purpose of this survey was to use the information to inform other regulatory functions, including supporting the development of guidance and communications material for industry, Food Act Officers and consumers, and to inform the methodology of the ISFR Co-ordinated Compliance survey, planned for post transition.

In order to achieve this secondary purpose, this survey determined the most common causes for claims not meeting the requirements of Standard 1.2.7. The common issues found, for both nutrition and health claims, are summarised in section three under the specific claim headings.

In most cases, especially for NCCs, basic misunderstandings about the requirements of Standard 1.2.7 (and corresponding requirements of Standard 1.2.8), such as the requirement for all claimed items to be listed in the NIP, can be clarified with appropriate industry groups to clarify understanding and aid future compliance.

In the case of GLHCs, where dietary context statements are missing, this can be easily rectified with clearer guidance around this requirement. Where GLHCs are being made that are not pre-approved, the process of compiling evidence dossiers to self-substantiate claims as per the requirements of Schedule 6, plus notify FSANZ, with subsequent review by MPI of systematic reviews, is a resource intensive step.

*Associated MPI Actions:*

1. *MPI continue to help facilitate this process, to ensure manufacturers are aware of the process required.*
2. *MPI's implementation team will draw from the results of this survey in formulating future training, guidance and questions and answers, in relation to Standard 1.2.7, especially as we approach the end of the transition phase for this Standard (in January, 2016).*
3. *MPI will utilise knowledge gained by this survey process to help better the methodology of the ISFR Co-ordinated Compliance survey, planned for post transition.*

While this was a baseline survey, it is interesting to compare the results with a previous informal survey of breakfast cereals in Australia and New Zealand, conducted by FSANZ. This informal survey was undertaken while drafting Standard 1.2.7 (prior to 2013) in order to better understand the range of claims being made at that time on breakfast cereal products. In this survey, 301 breakfast cereal products were found to be making 929 nutrition and health claims; an average of 3.1 claims per product. The current baseline survey, while only including a random sample of 59 cereal and cereal

products (not all breakfast cereals), found 95 nutrition and health claims (only eight of which were health claims). On average, this is 1.6 claims per product, with most of these being NCCs that met the requirements of Standard 1.2.7. This broadly indicates that, at least within New Zealand, some manufacturers are already making an effort to comply with Standard 1.2.7.

## 4.1 Recommendations for future surveys

With respect to future surveys of how claims meet the requirements of Standard 1.2.7, this baseline survey has identified categories of products and common issues most likely to occur, which may help to focus future work. For example, food categories making the most GLHCs were Special Purpose Foods, Non-alcoholic Beverages and Fresh Fruit and Vegetables. Since most of these also did not meet the requirements of the Standard, it may be prudent to focus on these categories first, in any follow-up surveys. The Snack foods, Special Purpose Foods, Seafood and Dairy categories were shown to be making the most NCCs, however in the first three categories, the majority of NCCs met requirements. In the case of dairy foods, the majority of NCCs either did not meet requirements or partially met requirements, indicating a possible need to focus on this category in future surveys.

It should be noted that as this survey only examined label claims, any future compliance survey would need to examine broader advertising claims in separate marketing/promotion and online activities.

## 5 Limitations

While this survey assessed compliance of label claims against the requirements of Standard 1.2.7, it was not undertaken for compliance or enforcement purposes. A comprehensive compliance survey may also seek information on the marketing of individual products, both on and off-label.

Also, while the claim were assessed against the requirements of Standard 1.2.7, we recognise that the label may have been developed to meet the requirements of transitional Standard 1.1A.2.

While Nutritrack labelling images provided an excellent way to randomise and assess products, not all images were of sufficient quality to do a comprehensive assessment of each product. Where this occurred, a new product was randomly selected from Nutritrack for assessment. It is important that for future use of this tool to support labelling compliance surveys in particular, all images need to be of sufficient quality for assessment. This would also just be one part of a wider survey, in order to ensure that all products identified are currently available.

In addition, in some cases the product images available on Nutritrack did not capture every label surface. Therefore, some claims, and some vital information regarding the requirements for nutrition and health claims may have been missed. Where this was obvious another product was randomly selected. This is of particular concern in relation to claims missed altogether and split claims, where the dietary context statement or supporting information for a claim may be present on a different label surface that was not captured as an image in Nutritrack.

### *Associated MPI Action:*

*MPI will request that the Nutritrack database captures 100% good quality and readable images, and 100% of the packaging surface in the future.*

Since Nutritrack did not contain information on the fresh fruit and vegetables and alcoholic beverages categories, MPI collected these separately from supermarkets. We aimed to visit supermarkets representing each of the main two retail chains in New Zealand. However, due to time constraints, we were only able to collect information from one retail chain. This was however from both a lower and upper end supermarket within that retail chain.

## Appendix 1: Claims Checklist – NZ Baseline Nutrition and Health Claims Survey 2014

### **Nutrition Content Claims (NCC)**

#### **1. Identify types of NCCs (tick if relevant)**

- Statement (outside of NIP)
- Name of the Food (e.g. 'Diet...')
- Listed in NIP
- volunteered item
  - exceptions
    - Dietary fibre at <2g - voluntarily included in NIP is NOT a claim (c19 3)
    - Trans fatty acid content- voluntarily included in NIP is NOT a claim (c19 3)
    - Lactose content- voluntarily included in NIP is NOT a claim (c19 3)
- % RDI outside of NIP

#### **2. NCC Compliance Check (circle if relevant)**

COMPLIANT/NOT COMPLIANT	NCC and form of food stated together (if applicable)
COMPLIANT/NOT COMPLIANT	Property included in Schedule 1
COMPLIANT/NOT COMPLIANT	General conditions met
COMPLIANT/NOT COMPLIANT	Descriptor and specific conditions (specific conditions apply if inconsistent with general conditions)
COMPLIANT/NOT COMPLIANT	Synonym/modified wording -check same meaning – does not alter the meaning or contradict with wording of the descriptor in Schedule 1
COMPLIANT/NOT COMPLIANT	Alternative descriptors for food/property of food <u>INCLUDED</u> in Schedule 1 – permitted, includes numbers and numeric form – permitted if food/property of food included in Schedule 1
COMPLIANT/NOT COMPLIANT	Alternative descriptors for food/property of food <u>NOT INCLUDED</u> in Schedule 1 – only permitted descriptors/synonyms are Contains, Does Not Contain, Specified Amount of property in a Specified Amount of that food, or a combination
<u>Specific properties of food</u>	
COMPLIANT/NOT COMPLIANT	Lactose – only descriptors permitted are Free and Low (galactose required in NIP and other conditions)
COMPLIANT/NOT COMPLIANT	Trans fatty acids – only descriptors/synonyms permitted are Free, Low, Reduced/Light/Lite and Low Proportion (with conditions).
COMPLIANT/NOT COMPLIANT	Glycaemic load/index – descriptor must be expressed as a number or in numeric form (and other conditions)
COMPLIANT/NOT COMPLIANT	Gluten – only descriptor/synonyms are Free, Low, Contains Gluten, High in Gluten
COMPLIANT/NOT COMPLIANT	Choline, Fluoride, Folic Acid – only permitted if a health claim is also made. Only NCC descriptor/synonyms permitted are Contains, Does Not Contain, Specified Amount of property in a Specified Amount of that food, or a combination.

Specific Claims

COMPLIANT/NOT COMPLIANT	Comparative Claims – must include the claimed food together with the reference food and the difference between the amount of the property of the food in both foods [compares the nutrition content of one food or brand of food with another (includes light/lite, increased, decreased and similar words).
COMPLIANT/NOT COMPLIANT	No comparison of vitamin or mineral content of the food with another food
COMPLIANT/NOT COMPLIANT	Diet Claims – must not use the descriptor ‘Slimming’, or descriptors/synonyms that refers to slimming
COMPLIANT/NOT COMPLIANT	Diet comparison claims = a NCC using the descriptor ‘Diet’ if it meets the condition for making that claim by having at least 40% less energy than the same quantity of reference food.

NIP requirements

COMPLIANT/NOT COMPLIANT	Nutrient/Biologically active substance declared in NIP (c51g)
COMPLIANT/NOT COMPLIANT	Fats - cholesterol, saturated, trans, poly/mono unsaturated fatty acids – declare full fat breakdown: include trans, poly/mono unsaturated fatty acids (in addition fat/sat fat) (c54)
COMPLIANT/NOT COMPLIANT	Edible Oils/Edible Oil Spread and poly/mono unsaturated fatty acids: may be min/max (c51a)
COMPLIANT/NOT COMPLIANT	Fibre/specifically named fibre – declare presence or absence of fibre (c55)
COMPLIANT/NOT COMPLIANT	Sugars and ‘other’ carbohydrate claims – declare dietary fibre and 0/zero if absent (c55)
COMPLIANT/NOT COMPLIANT	‘Other’ carbohydrate claims – declare dietary fibre and 0/zero if absent (c55)
COMPLIANT/NOT COMPLIANT	Vitamin or Mineral: %RDI per serving declared in NIP or outside with serving size (c7a)
COMPLIANT/NOT COMPLIANT	Claims on foods prepared/consumed with other food (c11a)
COMPLIANT/NOT COMPLIANT	% RDI included in NIP (c 7a)

**Health Claims**

**1. Types of Health Claims**

- High level – refers to serious disease or biomarker of a serious disease
- General Level – not refer to serious disease/biomarker (generally relate to a nutrient function)
- Therapeutic claim – claim referring to the prevention or treatment of a serious disease [Note: these are prohibited – check no reference to prevention, diagnosis, cure or alleviation of a disease, disorder or condition or compare a food with a good that is represented to be for therapeutic use]

**2. HC Compliance Check**

For both HLHC and GLHC (could also relate to split claims)

COMPLIANT/NOT COMPLIANT	– Specifies a Food/property of a food and a specific health effect listed in Schedule 2 or 3
COMPLIANT/NOT COMPLIANT	- Specifies a population group listed in Schedule 2 or 3 (if relevant)
COMPLIANT/NOT COMPLIANT	- Provides a dietary context statement (either general or specified as per Schedule 2 or 3).

COMPLIANT/NOT COMPLIANT

- meets the conditions listed for each food or food property listed in Schedule 2 or 3.

COMPLIANT/NOT COMPLIANT

- Modified wording? Check identical meaning – does not alter the meaning or contradict with wording of the FHR in Schedule 2 or 3.

COMPLIANT/NOT COMPLIANT

- Meets NPSC (Not for STD 2.9 foods)

Note: check after initial compliance check, as if non-approved claim NPSC irrelevant

Note: according to c 25 the label is required to list the properties of the food necessary to calculate the NPSC if the food relies on that property to qualify to make a health claim.

GLHC only

COMPLIANT/NOT COMPLIANT

- Not in Schedule 2 or 3? – check if it's a notified self-substantiated Food Health Relationship

Further Specific Claim Requirements

COMPLIANT/NOT COMPLIANT

- Claims about phytosterols, phytostanols and their esters trigger a requirement for a mandatory advisory statement (c 2, std 1.2.3)

Endorsements

COMPLIANT/NOT COMPLIANT

- Endorsing bodies and criteria as per c 22-23.

Appendix 2: Summary data: Percentage of products making NCCs, GLHCs and adherence to requirements of the Food Standards Code

Category	NCCs (%)	Not meeting requirements (%)	Meeting requirements (%)	Partially meeting requirements (%)	Unknown (%)	Maximum number of NCCs per food item	GLHCs (%)	Not meeting requirements (%)	Meeting requirements (%)	Partially meeting requirements (%)	Maximum number of GLHCs per food item
Bread & bakery products	37	20	56	24	0	7	3	100	0	0	8
Cereal & cereal products	47	14	64	21	0	10	7	75	0	25	4
Confectionery	28	22	56	22	0	5	3	100	0	0	1
Convenience foods	59	18	71	12	0	3	0	N/A	N/A	N/A	0
Dairy	67	20	30	50	0	8	7	100	0	0	1
Eggs	0	N/A	N/A	N/A	0	0	0	N/A	N/A	N/A	0
Edible oils	31	25	75	0	0	15	0	N/A	N/A	N/A	0
Fresh fruit & vegetables	13	70	10	20	0	5	15	92	0	8	5
Packaged vegetables, fruit, nuts and seeds	31	9	87	4	0	4	0	N/A	N/A	N/A	0
Meat and meat products	33	47	27	27	0	4	0	N/A	N/A	N/A	0
Non-alcoholic beverages	60	24	65	12	0	12	16	100	0	0	2
Sauces/spreads	39	28	55	17	0	7	0	N/A	N/A	N/A	0
Special purpose foods	71	8	67	8	17	3	17	100	0	0	1
Seafood	71	20	80	0	0	2	0	N/A	N/A	N/A	0
Snackfoods	69	18	73	9	0	3	0	N/A	N/A	N/A	0
Sugars & Honey	17	100	0	0	0	1	0	N/A	N/A	N/A	0
Alcoholic beverages	6	20	40	20	20	2	0	N/A	N/A	N/A	0