

For Your Information: F3-03

Label Claims

New Zealand Food Safety Authority

Animal Products Group

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Introduction

As there are a number of pieces of New Zealand legislation dealing with labelling both for the domestic and international trade of animal products, these guidelines have been produced to help understand what legislation is applicable and how they inter-relate.

Guidelines When Using Label Claims

- The Animal Product Regulations 2000 require that animal product must not be associated with a false or misleading representation of any kind. This therefore includes any packaging, labelling or anything that could result in misrepresentation. A definition of "label" is given in the Animal Products (Specifications for Products Intended for Human Consumption) Notice 2002.
- An operator may use label claims on food items (including animal products) if it complies with the relevant New Zealand legislation. The responsibility for labelling lies with the operator.
- The existing legislation under the Meat Act 1981 is silent in regard to the issue of label claims. For products produced in accordance with the Meat Act, and intended for export, the requirements relating to label claims that apply under the Animal Products Act 1999 (APA) and associated legislation may be considered as the base NZ standard.
- If an exporter intends to export animal products/materials covered by the APA, that have label claims that comply with NZ legislation, then the onus is on the exporter/operator to determine the situation in the markets to which they intend exporting. If there is no indication that the label claim does not meet the standard required in the country of destination (if there is one at all) then NZFSA will allow exports to proceed with the label as it stands, however this is at commercial risk as per the Official Assurances Programme Part 12.
- Where a definition in relation to a label claim is notified by NZFSA e.g. published by way of OMAR, and an exporter wants to export animal products/materials labelled according to that OMAR to overseas markets (other than the market notified in the OMAR) where no applicable OMAR has been notified, then the onus is on the exporter/operator to determine the applicable requirements, if any, in the those other markets. If there are no label claim requirements applying in the country of destination then NZFSA will not require re-labelling of the product, however export with labels making a claim is at the exporters commercial risk as per the Official Assurances Programme Part 12.
- Where importing countries have known requirements regarding label claims, e.g. as published in OMARs, and these are in conflict with the New Zealand requirements for labelling, then the OMAR requirements take precedence over the NZ requirements for exported product to that market. Should such product then be diverted to the local market then the operator would be obliged to remove or amend such a label claim thereby ensuring compliance with NZ requirements.
- Official Assurances issued are not to include any label claims in the product description, except where required by an OMAR. Currently only the USA and Canada require that the product description, as on the label, be directly transferred to the Official Assurance. Both

these countries have specific requirements with regards to label claims. (The only other currently relevant OMAR relating to label claims is EU beef labelling).

- Where label claims are the subject of an Official Assurance under the APA, or are part of an operators registered risk management programme (RMP), then these claims will be required to be verified, as truthful, by the operator. This system will need to be verified by a recognised agency (e.g. MAFVA).
- The Fair Trading Act 1986 (FTA) and the Food Act 1981 (including the Australia New Zealand Food Standards Code, FSANZ) only apply to products that are traded domestically. When an operator uses a label claim for an overseas market as part of an OMAR (eg US label claim), and that product is released on to the domestic market, the operator needs to ensure that the claim also complies with the FTA and Food Act.
- All operations under the APA are required to meet the relevant labelling requirements under the Act, regardless of whether an RMP is required or not. (see Animal Products Regulation, reg 8).

Animal Products Regulations (reg 8)

States that "Animal product must not be associated with a false or misleading representation of any kind concerning its-

- (a) fitness for intended purpose:
- (b) nature
- (c) origin:
- (d) composition:
- (e) ingredients or other constituents:
- (f) proportion of ingredients or other constituents"

New Zealand Labelling Requirements

Where products are traded on the domestic market, other NZ legislation in addition to the Animal Products Act and Meat Act, is applicable and must be considered. The relevant pieces of legislation are the Food Act and the Fair Trading Acts. Information relating to this legislation is provided below.

The Food Act 1981, section 10

Misleading labelling and packaging-

(1) No person shall sell any food or appliance-

- (a) That bears or has attached to it, or is contained in a package that bears or has attached to it, any false or misleading statement, word, brand, picture, label, or mark purporting to indicate the nature, suitability, quantity, quality, strength, purity, composition, weight, origin, age, effects, or proportion of the food or appliance, or of the food or appliance contained in the package, as the case may require, or of any ingredient or nutrient or other constituent of the food or any component of the appliance; or
- (b) That has been packaged, processed, or treated in a manner that is false or misleading in relation to any of the matters mentioned in paragraph (a) of this subsection.

FSANZ

FSANZ develops and maintains the joint Australia New Zealand Food Standards Code (joint Code). The joint Code is available on the FSANZ website:

<http://www.foodstandards.gov.au/code/Pages/default.aspx>

The code contains requirements for labelling, including provisions for claims, such as nutrition claims, characterising ingredients of foods, vitamin and mineral and health claims.

Fair Trading Act

Claims should be restricted to those which are based on facts. Where appropriate, accompanying information should be provided to show consumers that the claims are justified and substantiated.

Remember to consider the overall impression that you have created with the labelling and ask whether it is likely to mislead an ordinary shopper.

Advice issued from the Commerce Commission titled:

"Food Labelling, Promotion and Marketing. A guide for manufacturers, importers and retailers. January 2000"

can be obtained at the Commission Offices in Auckland, Wellington or Christchurch or can be found at the website below:

<http://www.comcom.govt.nz/health-and-nutrition-claims/>

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