

UNITED STATES DEPARTMENT OF AGRICULTURE
FOOD AND NUTRITION SERVICE
CHILD NUTRITION DIVISION
NUTRITION PROMOTION AND TRAINING BRANCH

3101 PARK CENTER DRIVE, ROOM 632
ALEXANDRIA VA 22302
OFFICE: 703/305-2609
FAX: 703/305-2549

FACSIMILE TRANSMITTAL SHEET

TO: Bill Hargis

FROM: Michelle Prettyman

FAX NUMBER: 866.929.0066

TOTAL NO. OF PAGES INCLUDING COVER: 3

PHONE NUMBER:

DATE: 1/29/09

RE: Luzu Brando

- URGENT
- FOR REVIEW
- PLEASE COMMENT
- PLEASE REPLY
- PLEASE RECYCLE

NOTES / COMMENTS:

JAN 28 2009

William C. Hargis, Jr.
CEO, 4U2U Brands
3126 W. Cary St., #177
Richmond, VA 23221

Dear Mr. Hargis:

We have received your petition requesting an exemption for two 4U2U Brands Fruit 66 carbonated juice beverages in Orange Tangerine and Apple Berry from the "foods of minimal nutritional value" as defined in 7 CFR Part 210.11 (a)(2) and Part 220.2 (i-1).

The laboratory nutritional analysis submitted contains all the data required to determine whether or not these products are a food of minimal nutritional value. In addition, it is understood that discrete nutrients that may contribute to the vitamin C content were not present in the product samples submitted to the laboratory for nutrition testing.

Your letter also indicates that there is a change in the formulation of 4U2U Brands Fruit 66 carbonated beverages in Kiwi Strawberry Blast and Fruit Punch. These two products are currently exempted from the "foods of minimal nutritional value" as defined in 7 CFR Part 210.11 (a)(2) and Part 220.2 (i-1)

The changes made to the ingredient statements, as compared to your previously exempted products, do not affect the nutritional status of the products. The laboratory nutritional analysis submitted contains all the data required to determine whether or not these products are foods of minimal nutritional value. You have also indicated that no discrete nutrients were added to these products before the nutrition analysis occurred.

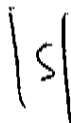
Both "per serving" and "per 100 calories" nutrient analysis show that in 4U2U Brands Fruit 66 carbonated juice beverages in Fruit Punch, Kiwi Strawberry Blast, Orange Tangerine and Apple Berry one nutrient (vitamin C) is greater than five-percent of the Reference Daily Intake. Therefore, these products are exempt from the "soda water" category of "foods of minimal nutritional value" [7 CFR Part 210 Appendix B (a)(1) and Part 220 Appendix B (1)]. The exemption from the "soda water" category simply allows the product to be sold in competition to the reimbursable meal in the food service area during meal periods. The exempted products may not contribute towards a reimbursable school meal.

The Department of Agriculture does not prohibit the sale of the above products in a school food service area during meal periods. However, State agencies and school food authorities maintain the final right to restrict such sales. If there are any changes to the formulation that would affect the ingredient statement or vitamin C content this product must be resubmitted for reevaluation and exemption. It is also the responsibility of 4U2U

Brands Company to insure that the product formulations listed above comply with the Food and Drug Administration's food additive or fortification rules regarding folic acid.

A memo will be sent to our regions adding the above 4U2U Brands products to the "Exemptions Under Competitive Foods Regulation" list. If there are additional questions please contact my staff at (703) 305-2609.

Sincerely,

A handwritten signature consisting of a stylized 'C' and 'L' enclosed in a vertical line.

CYNTHIA LONG
Director
Child Nutrition Division