

13th February 2023

Dear Sir / Madam,

AACS Submission to FSANZ Proposal 1056 – Caffeine Review

AACS Introduction

Established in 1990, the Australian Association of Convenience Stores (AACS) is the peak body for the convenience industry in Australia. Nationally, the industry employs over 74,000 people in over 7,000 stores. The majority of these stores operate as small, family-run businesses, often under licence or a franchise agreement, or with independent ownership. They regularly employ family members in which they operate. The AACS represents the interests of these small businesses - their owners, staff, suppliers and customers.

Each year the AACS commissions an independent body to measure key metrics in the sector, which is published as the *State of the Industry Report*¹. Turnover in the convenience industry in Australia was valued at approximately \$45.4 billion annually in 2021, the latest figure for which data is available. This consisted of \$9.4 billion in merchandise sales, and a further \$35 billion in petrol sales.

Caffeine is consumed by 9 in 10 Australians each day, with up to 6% of adults exceeding the recommended maximum intake for caffeine, which could lead to serious health impacts. The recommended maximum daily intake of caffeine is 400 mg, however, a single serve of more than 210mg can cause adverse health effects such as an increase in blood pressure, tachycardia, ventricular arrhythmia, or seizures. Those most at risk are babies, children, pregnant women, and people with chronic health conditions.

In 2019, FSANZ research suggested that caffeine consumption was increasing, in part due to the increased consumption of sports drinks as a lifestyle beverage. In response, FSANZ moved to prohibit the sale of beverages with 1% or more caffeine and the sale of foods with 5% or more caffeine, until further consultation could be conducted.

FSANZ is now consulting on a proposal to limit caffeine, with the preferred option to:

- Remove the current 5% and 1% limits and instead expressly prohibit the addition of caffeine to foods for retail sale without express permission (cola and formulated caffeinated beverages). This would not impact adding foods with naturally occurring caffeine to other foods e.g. chocolate cake.
- Add a new express permission to add caffeine to Formulated Supplementary Sports Foods, which would be strictly limited to 200mg/day.
- Further education around the impacts of caffeine consumption.

AACS welcomes the opportunity to assist further consideration of the proposal.

Policy position

AACS does not support changing caffeine permissions in cola type drinks or energy drinks (formulated caffeinated beverages). However, AACS would support an express permission to limit the addition of caffeine in other foods and drinks including sports foods, drinks and supplements. AACS supports the proposal to limit the addition of caffeine in other foods or drinks. AACS also acknowledges the current self-regulatory measures of the beverage industry, including commitments by the energy drink manufacturers in Australia (who are members of the Australian Beverages Council) to not sell energy drinks in primary or secondary schools, not directing marketing at children and not promoting excessive consumption, and calls for these to be expanded to the sports drink category.

1. **Do you consider there are risks to consumers from caffeine in the current market environment, under the current regulations? Please provide any evidence or relevant examples in detail to assist FSANZ in its assessment.**

Yes. As detailed in P1056, there are risks for certain population sub-groups that are sensitive to caffeine (such as infants, children, pregnant women, people with chronic conditions).

There is also an increased risk of caffeine toxosis in population subsets who are prone to chronic/acute caffeine consumption, such as athletes and bodybuilders (although the extent of this problem in Australia and New Zealand data).

On FSANZ's preferred option that if caffeine is prohibited to be added to all foods, FCBs and FSSF, that a premarket assessment is then required to add caffeine to any other food? If not, are there other approaches that would better address the problem?

S supports the FSANZ preferred Option 3 - a Hybrid mix of regulatory and non-regulatory approaches. This support consumer health, product innovation and retail trade.

3. **Do you foresee any compliance or enforcement issues with the preferred approach of expressly permitting total caffeine in FSSF at a maximum one-day quantity of 200 mg, whilst expressly prohibiting the addition of caffeine to all foods apart from cola type drinks and FCBs?**

AACS is not aware of any compliance or enforcement issues posed by the preferred approach.

4. **Are there other supporting measures that FSANZ should consider, whether regulatory or non-regulatory?**

The social science literature review found a prevalence of caffeine intake in excess of recommended daily limits across the general adult population, where coffee was the major contributor to overconsumption.

The Dietary Intake Assessment indicated that formulated supplementary sports food (FSSF) represented only a small percentage of daily caffeine intake overall (4% for 13–19-year old's and 6% in adults (20+)). However, evidence showed athletes, military personnel and the general population are consuming multiple types of sports foods within the same day, and that this stacking behaviour is putting consumers at risk of inadvertently exceeding recommended maximum daily limits if they are unaware of the amount of caffeine in sports products.

The evidence presented in P1056 indicates that the average consumer does not know how much caffeine is in foods and beverages, how much is safe to consume, or the risks of overconsumption. This unawareness poses a risk to public health and safety. The prescription to amend labelling on sports foods to show a product 'contains caffeine' may have minimal impact without a better understanding of cumulative caffeine consumption levels.

AACCS believes that this issue is best addressed through consumer education to increase the general awareness and understanding of:

1. the safe daily limits for caffeine consumption,
2. the dangers and symptoms of exceeding daily caffeine limits, and
3. how to use available packaging information on caffeine content to avoid overconsumption of caffeine and its negative health impacts.

5. Can you share any further knowledge of current research about? A. the health effects of caffeine, b. global developments in caffeinated food products, or c. regulatory approaches being taken in comparable markets?

While there is little evidence to quantify the extent of the problem, P1056 is comprehensive in its consideration of available data. A literature search to identify any new research since it was written would be unlikely to change the primary conclusions in this proposal.

Once again, thank you for the opportunity to comment on this proposal. Should you require any further information, please do not hesitate to contact me by [REDACTED]

Yours sincerely

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