

3.3.1 Questions for all submitters

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, ALDI does believe there is a risk for consumers consuming too much caffeine. Product categories in the weight management and exercise fields are launching more and more products with added caffeine. It is very likely that these items are consumed by young people who take great pride in their appearance. These consumers might also be the time poor consumers that purchase energy drinks to keep them going.

Therefore, the total intake of caffeine may be dangerously high. It appears that consumers are not aware of the (potential) dangers of caffeine or the levels that should be acceptable for an individual.

2. Do you have any thoughts on FSANZ's preferred option that if caffeine is prohibited to be added to all foods apart from cola-type drinks, 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?

Yes, ALDI believes that there should not be a premarket assessment requirement for any products in categories other than cola-type drinks, FCBs and FSSF. The reason for this is that trends with regards to product categories using new ingredients and extracts are most likely to come from overseas. It is also unlikely that other categories would pursue to add high levels of caffeine to their products. Therefore, rather than making premarket assessment a requirement ALDI suggest a maximum level of caffeine that can be added to other categories that is lower than the 200mg (daily) limit proposed for cola-type drinks, FCBs and FSSF. ALDI suggest a level of 100mg (daily) limit for these products and a premarket assessment only if businesses want to add additional caffeine.

ALDI notes that overseas products outside of the cola-type drinks, FCBs and FSSF's space already show high levels of added caffeine. See examples here;

https://www.amazon.com/Awake-Chocolate-Caffeinated-1-34oz-Count/dp/B0016M14F6/ref=as_li_ss_tl?ie=UTF8&qid=1536864271&sr=8-4&keywords=awake+dark+chocolate&linkCode=sl1&tag=msnrev001-20&linkId=f21e24273e9f6072a20e56e4b3876966&language=en_US

<https://www.walmart.com/ip/Awake-Energy-Cinnamon-Roll-Granola-Bar-5-count-6-oz/49533248>

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?

Reviewing the current market landscape there are certainly products available for sale that could encounter compliance issues, containing upwards of 150mg caffeine per individual serve. Is consideration being allowed for consumers who may consume multiple of these affected products per day e.g. caffeinated energy drink, high energy meal replacement bars and coffee?

From an ALDI exclusive perspective, we do not foresee a compliance issue across our product range.

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

ALDI would recommend aligning with International standards and guidelines available.

5. Can you share any further knowledge of current research about?

a. the health effects of caffeine, N/A

b. global developments in caffeinated food products, N/A

c. regulatory approaches being taken in comparable markets? N/A

3.3.2 Questions specifically for the food industry

6. In the medium term, does your company have any plans to expand the number of SKUs that contain caffeine? What would be the nature of those SKUs?

ALDI cannot answer this question due to the large number of private label products produced by ALDI that would have to be reviewed.

7. Do the current regulations around caffeine, in particular where cola-type drinks and FCBs are concerned, allow for your future product development needs? If not, please explain why not and what regulation you think would be more suitable?

Yes.

8. Beyond the mandated labelling imposed by the Code, is there any current or planned industry led mitigation measures to reduce consumers' exposure to caffeine?

Not that ALDI is aware of.

9. Will your company be prepared to help develop non-regulatory measures to monitor and manage the number of food products that contain caffeine?

No.

10. For product developers considering the addition of plant or other extracts containing caffeine, do you consider these would meet the definition of a novel food and therefore require a premarket safety assessment?

This question is confusing to ALDI. From reading the proposal it becomes clear that items such as coffee in tiramisu or tea in iced tea would not be affected by this proposal. However, the term 'extracts' is not explained and where mentioned refers to guarana extracts. ALDI would like to clarify if tea and coffee extracts are also excluded and can be used without being affected by this proposal.

ALDI notes that coffee and tea extracts are popular and are often used to flavour products such as ice-cream, chocolate, biscuits etc., we recommend that an exclusion for beverages based upon coffee, tea as well as coffee and tea extract is put into place in line with the European legislation mentioned on page 53 of the call for submissions - Proposal P1056.

3.5.1.6 Questions for stakeholders

11. How many stock keeping units (SKUs) will be affected by the proposed changes, for either FSSF or other foods, or both?

ALDI cannot answer this question due to the large number of private label products produced by ALDI that would have to be reviewed.

12. If your business has any SKUs affected, then: a. what is the nature of those products, and b. what action will you take in response to the regulation (for example, withdraw the product, reformulate the product, update labels to meet new requirements, etc)?

ALDI cannot answer this question due to the large number of private label products produced by ALDI that would have to be reviewed.

13. What will the cost of the above action(s) be? Be as specific as possible, and please separate the cost by type, for example, reformulation, re-labelling, write-off of existing stock etc.

ALDI cannot answer this question due to the large number of private label products produced by ALDI that would have to be reviewed.

14. For any of your existing SKUs likely to be affected by the regulatory option, typically how long do those SKUs take to be sold?

ALDI cannot answer this question due to the large number of private label products produced by ALDI that would have to be reviewed.

15. To what extent do you agree that there are relatively few general foods (i.e. not FSSF) that contain added caffeine (i.e. foods that will be impacted by the proposal) and are currently sold in Australia and New Zealand?

At this point in time ALDI agrees, although the market trend does show an increase in these products and demand from consumers for 'high energy' and on-the-go snack products that fall into this category.

16. Are there any unintended consequences of the proposal?

These changes made to products without an education campaign could result in adverse consumer reaction to products. Any change made without an adjoining education campaign would mean consumers are not aware for the reasoning and adverse health effects behind the changes. Consumers may then be led to consume multiple different caffeine containing products per day to achieve the same effect previously exerted from one product. Consumers must be educated on the reason behind the change.

17. How effective do you believe each of the proposed options would be in achieving the objectives of this proposal and why? In particular, consider risks of over-consumption of caffeine for sensitive sub-populations.

As stated above, without education on the reasons behind the change the objectives may not effectively be met.

18. Do you have any other comments on the benefits or costs of the proposed options?

Where the proposed change leads to updated product labelling requirements ALDI needs a transition period of at least 36 months. This takes into consideration the time it takes to make any changes as well as the long shelf life that most of the affected products will have.