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Approval report – Proposal P1062

Defining added sugars for claims

Food Standards Australia New Zealand (FSANZ) has assessed a proposal to define and clarify added sugars for the purposes of making claims.

On 11 September 2023, FSANZ sought [submissions](#) on a draft variation and published an associated report. FSANZ received 88 (and four late) submissions.

After having regard to the submissions received and the relevant matters as set out in this report, FSANZ approved the draft variation on 14 November 2023. The Food Ministers' Meeting¹ was notified of FSANZ's decision on 17 November 2023.

This Report is provided pursuant to paragraph 63(1)(b) of the *Food Standards Australia New Zealand Act 1991* (the FSANZ Act).

¹ Formerly referred to as the Australia and New Zealand Ministerial Forum on Food Regulation

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Supporting document

The following document which informed the assessment of this proposal is available on the FSANZ website:

[SD1 Consumer Evidence Summary: 'No Added Sugar\(s\)' Claims](#)

Executive summary

Australian and New Zealand food ministers requested Food Standards Australia New Zealand (FSANZ) assess a proposal to clarify the Australia New Zealand Food Standards Code (the Code) requirements related to voluntary nutrition content claims about added sugars in food.

This proposal is part of staged work on added sugar labelling to support consumers in making informed food choices. Proposal P1058 – Nutrition labelling about added sugars² is considering including added sugars in the Nutrition Information Panel to provide consumers with more information about the sugars content of food. Consumer research focussing on the best ways to convey nutrition information about sugars to consumers is underway and will be integral to informing this work.

For this proposal, FSANZ reviewed the requirements for making voluntary nutrition content claims about added sugar to:

- clarify and define added sugars for the purposes of making ‘no added sugar(s)’ nutrition content claims; and
- ensure these claims align with dietary guidelines in Australia and New Zealand to better inform consumer food purchases.

Australian and New Zealand dietary guidelines

Australian and New Zealand dietary guidelines recommend people limit their intake of food and drinks containing added sugars as part of a healthy diet. The Australian Dietary Guidelines recommend limiting added sugar in the diet, and state for example, when choosing fruit juice to choose one without added sugar and limit the amount consumed. In contrast, the New Zealand Dietary Guidelines identify fruit juice as a major source of added sugar and recommend eating fresh fruit rather than consuming fruit juice due to high sugar content.

Available data indicates that on average, over half of Australians and New Zealanders exceed recommendations in relation to the consumption of sugars.

FSANZ’s assessment

FSANZ’s assessment considered Australian and New Zealand dietary guidelines, product data, international approaches, and Ministerial policy guidance. FSANZ also undertook a rapid literature review to examine the available evidence on consumer value, and perceptions and behaviours in response to ‘no added sugar(s)’ claims on food products.

We engaged with federal, state and territory government bodies in Australia and with New Zealand government. Our consideration also included feedback obtained from targeted consultation on related proposal P1058.

The costs and benefits that may arise in relation to this proposal were also considered.

FSANZ found there is evidence consumers may be misled by ‘no added sugar’ claims, particularly when claims are on products with high total sugar content. The assessment identified that ‘no added sugar(s)’ claims:

- are prevalent in the Australian and New Zealand market, particularly in certain categories of foods
- are sought out by consumers, but may not be well understood
- can increase how healthy consumers perceive food products to be and can influence purchasing decisions

² [Proposal P1058 – Nutrition labelling about added sugars](#)

- are commonly understood by consumers to be about sugar that is added during manufacturing or food preparation, rather than including inherent or naturally occurring sugars in a food
- are found on products containing a wide range of total sugar contents, with total sugar content varying among product categories

These findings suggest consumers are not currently supported to make informed choices and may be misled by 'no added sugar' claims. Amending the requirements for 'no added sugar(s)' claims would better support consumers in making informed choices about sugars in their diet in line with dietary guidelines.

Accordingly, FSANZ issued a call for submissions (CFS) proposing to amend the Code to:

- define 'added sugar' for claim purposes; and
- clarify conditions for making 'no added sugar' claims.

This approach was intended to not allow claims on food with 'added sugar' and fruit based ingredients that contribute to total sugar content when added to food. Noting the dietary guidelines encourage the consumption of whole fruits and vegetables but recommend limiting foods high in sugar, the level of processing of these ingredients was considered.

Submitter feedback

Submitter views from stakeholders, in particular government and public health, noted the approach perpetuated consumer confusion about natural sources of sugar by consumers for example, by continuing to allow claims on single ingredient fruit juice and purees (and blends of these).

Jurisdictions commented the proposed approach lacked clarity and would be complex to implement and enforce, based on the claim conditions referring to a level of processing as that detail is not currently required in the statement of ingredients. For example, if a fruit is listed in the ingredients list (e.g. apple) it would not be possible to know if the fruit is chopped, and therefore a claim is permitted; or pureed, and therefore not permitted, making enforcement challenging.

Industry feedback was that sources of natural sugars derived from fruits and vegetables should not be considered as added sugars, even when added to a product, as the dietary guidelines encourage consumers to eat fruits and vegetables. They noted the potential to confuse consumers by not allowing differentiation between products with just fruit ingredients and products with fruit ingredients plus added sugars.

FSANZ's assessment at approval

In response to feedback, FSANZ undertook further analysis of the prevalence of claims and total sugar content of products carrying claims in the marketplace. FSANZ also undertook modelling of data, reviewed sugars recommendations and thresholds and considered the additional evidence provided by submitters in the CFS.

Therefore, following the CFS and for reasons set out in this approval report, FSANZ has approved an amended draft variation to not permit 'no added sugar(s)' claims when a food:

- contains, or is, an 'added sugar' as defined
 - the definition as originally proposed in the CFS was amended to include concentrated and deionised vegetable juice and now also applies to foods that are themselves 'added sugar' e.g. jar of honey

- does not contain 'added sugar' but contains more *sugars* (i.e. monosaccharides and disaccharides) than:
 - 10.0 g /100 g for solid food
 - 7.5 g /100 mL for liquid food.
 - The addition of fruit based ingredients as proposed at CFS has been replaced with disqualifying criteria to achieve a similar intent but addresses the potential for consumers to be misled by claims on foods high in total sugar and is less complex to implement and enforce.

The amended draft variation also includes conditions relating to sugars produced in manufacture by hydrolysis and clarifies the conditions in relation to residual sugars after fermentation.

The amended draft variation will:

- provide information to consumers to enable them to make informed choices in line with Australian and New Zealand dietary guideline recommendations about added sugars in food
- minimise the risk of consumers being misled about the overall healthiness of products naturally high in sugar
- provide clarity and certainty for industry and government in the implementation and enforcement of the voluntary claims permitted to be made about added sugars in food, and
- provide a transition period that allows alignment with other currently proposed labelling changes (i.e. P1058).

As noted above, this proposal is part of staged work on added sugars being progressed by FSANZ. In undertaking this work FSANZ will ensure regulatory coherence between the amendments made as part of this proposal and any made by related work under P1058.

1 Introduction

1.1 The proposal

This proposal was prepared to consider the need to amend the Australia New Zealand Food Standards Code (the Code) to define and clarify added sugars for the purposes of making voluntary nutrition content claims about added sugars.

1.2 Reasons for preparing proposal

The Code permits voluntary 'no added sugar(s)' nutrition content claims to be made on foods subject to certain conditions.

Dietary guidelines provide evidence-based population health advice on healthy eating and the prevention of chronic diseases. The Australian and New Zealand dietary guidelines include recommendations about added sugars intake, being to limit intake of foods and drinks containing added sugars (Australia³), and to choose and/or prepare foods and drinks with little or no added sugars (New Zealand⁴). The dietary guidelines note sugars occur naturally in foods such as fruit, vegetables, grains and dairy products, and are also added to foods. The existing conditions for making 'no added sugar(s)' claims were developed prior to the release of the current dietary guidelines.

Ministerial policy guidance is that food labels, including voluntary information such as claims, provide adequate information to enable consumers to make informed food choices to support healthy dietary patterns recommended in the dietary guidelines⁵; and that claims support initiatives that promote healthy food choices by the population and protect consumers from false and misleading information that may result in distorted diets which harm health and increase health inequalities⁶.

It is unclear whether the 'no added sugar(s)' claim conditions in the Code align with the current Australian and New Zealand dietary guidelines, and support consumers to make informed choices in line with these guidelines when purchasing products with added sugars claims. Available evidence suggests the presence of 'no added sugar(s)' claims may influence consumers' perceptions of healthfulness of a food.

FSANZ is undertaking work on added sugars labelling in the nutrition information panel (NIP) under Proposal P1058 – Nutrition labelling about added sugars (see section 2.2.1). In response to a request from food ministers⁷, FSANZ is staging work on added sugars by considering whether there is a need to amend the Code to:

- clarify and define added sugars for the purposes of making 'no added sugar(s)' nutrition content claims; and
- align added sugar claims with dietary guidelines, while work including consumer research continues under P1058.

1.3 Procedure for assessment

The proposal was assessed under the General Procedure of the *Food Standards Australia New Zealand Act 1991* (FSANZ Act).

³ [Australian dietary guideline documents](#)

⁴ [New Zealand dietary guideline documents](#)

⁵ [Policy guideline on food labelling to support consumers to make informed healthy food choices](#)

⁶ [Policy guideline on nutrition, health and related claims](#)

⁷ [Food Ministers' Meeting Communique 28 July 2023](#)

1.4 Scope of proposal

This proposal reviews the requirements for making voluntary nutrition content claims about added sugars to determine whether there is a need to amend the Code to:

- clarify and define added sugars for the purposes of making ‘no added sugar(s)’ nutrition content claims; and
- align added sugar claims with dietary guidelines.

Its scope is limited to definition and clarification of added sugars for the purposes of making ‘no added sugar(s)’ and ‘unsweetened’ (or synonyms) nutrition content claims. Whether such claims should be permitted per se is out of scope, as are other permitted nutrition content claims about sugar or sugars and the conditions.

1.5 Decision

The draft variation as proposed following assessment was approved with amendments. The variation takes effect on upon gazettal. The approved draft variation, as varied after consideration of submissions, is at Attachment A.

The related explanatory statement is at Attachment B. An explanatory statement is required to accompany an instrument if it is lodged on the Federal Register of Legislation.

The draft variation on which submissions were sought is at Attachment C. The amendments made to the draft variation following consideration of submissions are detailed in section 3.3. These include amendments to:

- clarify ‘added sugar’ as defined
- apply a disqualifying claim criteria based on (total) sugars in a food, and
- apply a threshold amount of sugars produced through hydrolysis to all foods.

2. Background

2.1 Current standards

The requirements for making nutrition content claims are set out in Division 4 of Standard 1.2.7 – Nutrition, health and related claims and Schedule 4 – Nutrition, health and related claims.

The table in section S4—3 of Schedule 4 sets out the property of food⁸ (Column 1) along with general claim conditions (Column 2) that must be met when making a nutrition content claim about the property of food, and claim conditions (Column 4) for specific descriptors (Column 3), which must be met (in addition to the general claim conditions) when making nutrition content claims about a property of food using the associated descriptor (or synonym⁹). The conditions for the property of food ‘Sugar or sugars’ are in this table.

For nutrition content claims about sugar or sugars, there are no general claim conditions but there are specific conditions for ‘% free’, ‘low’, ‘reduced (or light/lite)’, ‘no added’ and ‘unsweetened’ claims or claims using synonyms of those descriptors.

⁸ **property of food** means a component, ingredient, constituent or other feature of food (see section 1.1.2—2 of the Code).

⁹ As per subsection 1.2.7—12(3) of Standard 1.2.7

The table to S4—3 in Schedule 4 sets out the conditions that must be met for a food to make a ‘no added sugar(s)’ claim as follows:

- (a) *The food contains no added sugars*, honey, malt, or malt extracts; and*
- (b) *the food contains no added concentrated fruit juice or deionised fruit juice, unless the food is any of the following:*
 - (i) *a brewed soft drink;*
 - (ii) *an electrolyte drink;*
 - (iii) *an electrolyte drink base;*
 - (iv) *juice blend;*
 - (v) *a formulated beverage;*
 - (vi) *fruit juice;*
 - (vii) *fruit drink;*
 - (viii) *vegetable juice;*
 - (ix) *mineral water or spring water;*
 - (x) *a non-alcoholic beverage.*

A food can make an ‘unsweetened’ claim if it meets the above conditions for a nutrition content claim about no added sugar and *contains no intense sweeteners, sorbitol, mannitol, glycerol, xylitol, isomalt, maltitol syrup or lactitol.*

Standard 1.1.2 of the Code defines ‘sugars’ for the purposes of Standard 1.2.7 and Schedule 4 (except where it appears with an asterisk as ‘sugars*’), to mean *monosaccharides and disaccharides.*

In Schedule 4, sugars* is relevant for ‘no added sugar(s)’ and ‘unsweetened’ nutrition content claims and *means any of the following products, derived from any source:*

- (i) *hexose monosaccharides and disaccharides, including dextrose, fructose, sucrose and lactose;*
 - (ii) *starch hydrolysate;*
 - (iii) *glucose syrups, maltodextrin and similar products;*
 - (iv) *products derived at a sugar refinery, including brown sugar and molasses;*
 - (v) *icing sugar;*
 - (vi) *invert sugar;*
 - (vii) *fruit sugar syrup;*
- but does not include:*
- (i) *malt or malt extracts; or*
 - (ii) *sorbitol, mannitol, glycerol, xylitol, polydextrose, isomalt, maltitol, maltitol syrup, erythritol or lactitol.*

2.2 Related applications and proposals

2.2.1 Proposal P1058 – Nutrition labelling about added sugars

In April 2022, FSANZ prepared Proposal P1058 – Nutrition labelling about added sugars¹⁰. The proposal is reviewing the need to amend the Code to include added sugars information in the NIP in light of food ministers’ desired policy outcome of providing contextual information about sugars to enable consumers to make informed choices in support of dietary guidelines. This proposal follows a review of nutrition labelling for added sugars¹¹, completed in 2021.

¹⁰ [Proposal P1058 – Nutrition labelling about added sugars](#)

¹¹ [Review of nutrition labelling for added sugars](#)

FSANZ undertook targeted stakeholder consultation on P1058 in September 2022 to canvass early views on technical matters including a proposed definition of ‘added sugars’ for the purpose of added sugars information in the NIP (see section 2.7.1).

In July 2023, FSANZ provided an update to the Food Ministers’ Meeting (FMM) about its assessment to date of P1058¹². The assessment identified complexities and challenges which indicate the proposal may not achieve the desired policy outcome. Ministers discussed alternative approaches to stage the delivery of this work, including the option of incorporating a definition of added sugars in the Code that aligned with dietary guidelines and then, through appropriate consumer testing, considering whether and how best to incorporate added sugars information in the NIP. Ministers also agreed to FSANZ undertaking consumer research on alternative labelling approaches to providing contextual information in addition to consumer testing added sugars in the NIP. FSANZ is progressing the consumer testing and research work under P1058 and expects to complete this in 2024. FSANZ intends to review the outcomes from P1062 in light of its assessment and findings in Proposal P1058, including its consideration of the consumer evidence available at that time (see section 3.3.1.3).

2.2.2 Proposal P1049 – Carbohydrate and sugar claims on alcoholic beverages

Proposal P1049 – Carbohydrate and sugar claims on alcoholic beverages¹³ commenced in 2018 in response to a request from food ministers to consider the need to clarify requirements for making voluntary nutrition content claims about carbohydrate and sugar on food that contains more than 1.15% alcohol by volume (ABV), including alcoholic beverages.

After assessment, FSANZ issued a CFS report on proposed amendments to clarify that claims about carbohydrate and sugar(s) are permitted on food containing more than 1.15% ABV. The existing conditions for making nutrition content claims about sugar(s) would apply to food that contains more than 1.15% ABV. Public consultation on the CFS report closed on 4 September 2023. It is anticipated the FSANZ Board will consider a final report on P1049 in mid-2024. Any changes to the conditions for making ‘no added sugar(s)’ claims that arise from P1062 would apply to food containing more than 1.15% ABV if amendments proposed under P1049 are approved.

2.2.3 Application A1247 – D-allulose as a novel food

FSANZ is assessing Application A1247 – D-allulose as a novel food¹⁴ which seeks to amend the Code to permit the sale of D-allulose as a novel food. If permitted, D-allulose will be added to foods as a low-energy substitute for sugar. In response to the applicant’s request, FSANZ is considering whether it is appropriate to permit the nutrition content claims ‘% free’, ‘low sugar(s)’, ‘reduced/lite’ and ‘no added sugar(s)’ on foods that contain D-allulose and otherwise meet existing claim conditions.

A CFS report is expected to be released for public consultation in November 2023.

¹² [Food Ministers’ meeting Communiqué 28 July 2023](#)

¹³ [Proposal P1049 - Carbohydrate and sugar claims on alcoholic beverages](#)

¹⁴ [Application A1247 – D-allulose as a novel food](#)

2.3 Ministerial policy guidance

2.3.1 Policy guideline on food labelling to support consumers to make informed healthy choices

In August 2020, the FMM (then the Australia and New Zealand Ministerial Forum on Food Regulation) endorsed the *Policy Guideline on Food Labelling to Support Consumers to Make Informed Healthy Choices*¹⁵. The overall aim of this policy guideline is that ministers expect food labels (including optional information) *to provide adequate information to enable consumers to make informed food choices to support healthy dietary patterns recommended in the Dietary Guidelines.*

The Policy Guideline notes *Dietary Guidelines* refers to the following documents: Australian Dietary Guidelines, Australian Infant Feeding Guidelines, New Zealand Eating and Activity Guidelines and New Zealand Food and Nutrition Guidelines for other specified age and stage groups.

The context of the policy guidance states that:

- *While there are some differences between the Dietary Guidelines in Australia and New Zealand, the dietary patterns recommended in both Dietary Guidelines are largely consistent; and*
- *To support consumer understanding and use of food labelling, there is a role for education and promotion of the Dietary Guidelines to raise consumers' awareness and understanding about healthy dietary patterns.*

It also recognises where additional optional information is provided on a food label, such as by nutrition, health and related claims, that other policy guidance may also be relevant.

2.3.2 Policy guideline on nutrition, health and related claims

In December 2003, the FMM (then the Australia and New Zealand Food Regulation Ministerial Council) endorsed a *Policy Guideline on Nutrition, Health and Related Claims*¹⁶ to assist with the development of Standard 1.2.7. This policy was updated and re-endorsed by food ministers in 2018.

The policy outlines principles for the regulation of nutrition, health and related claims including, among others, that any intervention by government should:

- *enable better engagement of sectors other than government in providing nutritional advice and information; and*
- *support government, community and industry initiatives that promote healthy food choices by the population.*

The policy also sets out desirable features of a regulatory system for nutrition, health and related claims including that the system should:

- *promote a partnership between consumers, governments and industry in the delivery and responsible use of nutrition, health and related claims which protects consumers from false and misleading information that may result in distorted diets which harm health and increase health inequalities.*

¹⁵ [Policy Guideline on Food Labelling to Support Consumers make Informed Healthy Choices](#)

¹⁶ [Policy Guideline on Nutrition, Health and Related Claims](#)

2.4 Dietary guidelines¹⁷

Dietary guidelines provide evidence-based population health advice on healthy eating and the prevention of chronic diseases to improve public health outcomes and reduce the costs associated with poor nutrition. Both the Australian and New Zealand dietary guidelines recommend to limit added sugars intake due to increased risk of excess weight gain and dental caries. Available data indicates that on average, over half of Australians and New Zealanders exceeded World Health Organization (WHO)¹⁸ recommendations in relation to the consumption of sugars in 2011-12 and 2008-09 respectively¹⁹. The following sections outline the respective dietary guideline recommendations for Australia and New Zealand relating to sugar.

2.4.1 Australia

Guideline 3 of the Australian Dietary Guidelines is *Limit intake of foods containing saturated fat, added salt, added sugars and alcohol* (National Health and Medical Research Council (NHMRC) 2013). Specifically, for added sugars, the guidelines recommend the following:

- *Limit intake of foods and drinks containing added sugars such as confectionary, sugar-sweetened soft drinks and cordials, fruit drinks, vitamin waters, energy and sports drinks.*

The dietary guidelines note sugars provide a readily absorbed source of energy, but added sugars can increase the energy content of the diet while diluting its nutrient density.

Guideline 2 recommends people enjoy a wide variety of nutritious foods including plenty of vegetables and fruit, noting fresh or raw/whole forms should mostly be eaten. Some processed fruits and vegetables, such as frozen and canned varieties in natural juices, are noted as nutritious alternatives as long as they are produced without added sugar (including concentrated fruit juice). The guidelines note that fruit juice is energy dense and can displace other nutritious foods if consumed in excess. They also refer to the high energy density and 'stickiness' (which may have implications for dental caries) of dried fruit. Serve sizes of 125 mL (1/2 cup) of 100% fruit juice and 30 g of dried fruit are recommended, preferably with *no added sugar, and only to be used occasionally as a substitute for other foods in the group.*

In relation to infants and young children, the guidelines refer to puréed and mashed vegetables and fruit as being important in the diets of infants, however, fruit juice is not recommended. For children over 12 months whole fruit is preferable to fruit juice due to its higher fibre content.

2.4.2 New Zealand

The Eating and Activity Guidelines for New Zealand Adults (New Zealand Ministry of Health (MoH) 2020) recommend enjoying a variety of nutritious foods including plenty of vegetables and fruit (Eating Statement 1). They note seasonal fresh vegetables and fruit are great choices and that frozen and canned varieties (drained and with no added sugar) are also good options.

Eating Statement 2 includes *Choose and/or prepare food and drinks: with little or no added sugar* and notes that *adding sugar increases the energy (kilojoules) content of food and drinks but adds no other useful nutrients.*

¹⁷ Throughout the report 'dietary guidelines' is used generically to refer to both the Australian and New Zealand dietary guidelines for adults unless specified.

¹⁸ [WHO Guideline: Sugars intake for adults and children \(2015\)](#)

¹⁹ [Policy Paper: Labelling of sugars on packaged foods and drinks, June 2019](#)

The guidelines refer to the WHO recommendations to reduce intake of free sugars (which include naturally-occurring sugars such as fruit juice and fruit juice concentrates) as a reason for the recommendation on added sugars.

The guidelines identify sugary drinks as including fruit juice, fruit drinks, powdered drinks, cordial, carbonated or fizzy drinks, energy drinks, sports drinks and flavoured waters and that *major sources of added sugars in New Zealanders' diets include: non-alcoholic beverages such as....fruit juice.*

The New Zealand guidelines note dried fruit as a very high-sugar snack that sticks more easily to teeth, increasing the risk of cavities, and recommend limiting the amount of dried fruit included in the diet.

For older adults (65 years and older), the MoH recommends most vegetables and fruit consumed are fresh, frozen and/or canned. However, if juice or dried fruit is consumed, only one serving of juice (250 mL) or dried fruit (2 tablespoons) counts towards the total number of servings for the day (MoH 2013).

The Healthy Eating Guidelines for New Zealand Babies and Toddlers (0–2 years old) (MoH 2021) recommend when preparing food for babies or toddlers to not add sugar and, if using commercially prepared foods, to choose those with no added sugars. Fruit juice and drinks are not recommended for infants and toddlers.

For children and young people, the MoH recommends limiting intake of fruit juice to no more than one diluted glass per day, equating to a maximum of 250 mL after the juice has been diluted (MoH 2015).

2.5 History of added sugar claims

Standard 1.2.7 was developed under Proposal P293 – Nutrition, Health and Related Claims²⁰ and gazetted in 2013 with a three year transition period. The existing 'no added sugar(s)' and 'unsweetened' claim conditions were developed at this time.

A key aspect to the development of Standard 1.2.7 was to *promote informed food choices in line with nationally accepted guidelines for healthy eating to minimise the risk of consumers being misled by marketing and promotional claims* (FSANZ 2008).

Subsequent to the gazettal of Standard 1.2.7, the Australian Dietary Guidelines were reviewed and updated in 2013 and the Eating and Activity Guidelines for New Zealand Adults in 2015 and again in 2020. The existing conditions for making 'no added sugar(s)' claims are therefore based on past dietary guidelines and may not align with current dietary guidelines as originally intended.

The previous Australian Dietary Guidelines (NHMRC 2003) noted fruit juice is a *good source of fluids and some vitamins but has kilojoules so enjoy in moderation*, and provided a serving size example of 1/2 cup. The guidelines did not specifically limit dried fruit but did recommend example serving sizes (e.g. four apricots). This contrasts to the current guidelines (NHMRC 2013) which recommend fruit juice and dried fruit *only be used occasionally and preferably with no added sugar* (see section 2.4.1).

²⁰ [Proposal P293 – Nutrition, Health and Related Claims](#)

The earlier New Zealand dietary guidelines (MoH 2003) recommended to limit fruit juice consumption because of its high sugar content and noted dried fruit is a concentrated form of sugar/contains a significant amount of sugar. The current guidelines (MoH 2020) continue to recommend limiting dried fruit, but identify fruit juice as a high sugar drink (see section 2.4.2).

Of relevance to considering the need to clarify and define added sugars for the purposes of making 'no added sugar(s)' nutrition content claims is the approach taken to determining the existing 'no added sugar(s)' claim conditions under P293. This approach did not consider the relative contribution of a potential source of added sugars to the diet but did give consideration to ingredients that are used for sweetening purposes.

2.6 Overseas approaches

FSANZ has reviewed international approaches for regulating 'no added sugar(s)' and similar claims as summarised in Attachment D – International 'no added sugar' and 'unsweetened' claim conditions. Other than Brazil, 'added sugars' is not specifically defined for the purpose of claims. Internationally, claim conditions generally capture sugars added to foods as well as ingredients that substitute for added sugars or sweetening agents, or have sugars increased by some other means e.g. hydrolysis. Discussion on relevant overseas claim conditions is included in section 3.3.

FSANZ has also reviewed definitions for 'added', 'free' and 'liberated' sugars used for various purposes internationally (not for claim purposes) as summarised in Attachment E – International 'added', 'free' and 'liberated' sugar definitions. While there are similarities in the types of sugars defined as 'added' (e.g. available mono- and disaccharides, syrups, honey), the definitions vary in regard to the inclusion/exclusion of sugars naturally present in foods (e.g. fruit juice, pulps, purées etc). This is due to the difference between 'free sugars' and 'liberated sugars' including naturally occurring sugars, and sugars which are 'added' to foods, as well as differences in national dietary guidelines and the intended use of the definition (e.g. mandatory labelling, intake levels or nutrition surveys).

2.7 Targeted stakeholder consultations

2.7.1 Proposal P1058 – September 2022

In September 2022, FSANZ held targeted consultations with public health and consumer groups, industry (including the alcoholic and non-alcoholic beverage sectors) and jurisdictions to canvass early views on technical matters relating to P1058. Representatives from 92 companies and agencies attended with more than 50 providing written comments on technical matters following the meetings.

At the targeted consultations, FSANZ proposed a draft definition of 'added sugars' for the purpose of including added sugars information in the NIP. This draft definition included sugars from single strength and concentrated fruit and vegetable juices but not sugars from processed fruit and vegetable products such as dried fruit, pulps and purées.

Stakeholders had polarised views on the proposed definition, particularly in relation to including sugars from fruit products such as fruit juice, dried fruit, pulps and purées. Public health and consumer stakeholders generally considered sugars from fruit juice and most processed fruit products should be included as 'added sugars', while industry believed these sources of sugar should be excluded.

2.7.2 Government

As food ministers requested FSANZ consider the need to clarify and align any Code definition of added sugars with dietary guidelines, FSANZ consulted with the respective agencies responsible for the dietary guidelines: in Australia the NHMRC and in New Zealand the MoH. Both agencies provided a view on FSANZ's proposed approach to defining and clarifying added sugars for the purpose of making claims as proposed at CFS, indicating that it generally aligned with each country's respective dietary guidelines.

FSANZ also consulted with government partners from state and territory health and food regulatory authorities and the New Zealand Ministry for Primary Industries on the proposed approach to defining and clarifying added sugars for the purpose of making added sugar claims. Comments received were generally supportive of the proposed approach at CFS.

These government agencies and most jurisdictional partners subsequently provided submissions to the CFS (see section 3.1). FSANZ also further consulted with the agencies responsible for the dietary guidelines on the approach at approval (see section 3.1.2).

3 Summary of the findings

3.1 Summary of issues raised in submissions

3.1.1 Public consultation

FSANZ sought public comment via a CFS on the proposed draft variations to the Code from 11 September to 8 October 2023. A total of 88 (and four late) submissions were received: 58 from the food industry (including four retailers and 21 from the alcohol beverage industry), 12 from public health, 11 from government, and seven from academia and consumer groups. The submissions received are published on the [FSANZ website](#).

Table 1 in Appendix 1 of this report summarises the issues raised in submissions to the CFS and provides FSANZ's response.

Stakeholders had diverse views about particular aspects of the proposed approach and generally were not supportive. A key issue raised by all stakeholder groups was the interrelationship of P1062 with P1058 and the potential for the approach under P1062 to have implications for P1058, especially in relation to the definition of 'added sugars'. Submitters requested clarification on how FSANZ will address this given the staged approach to the added sugars work.

Most industry submitters supported the proposed approach based on the addition of ingredients but did not support inclusion of the list of fruit ingredients in the conditions. Submitters noted fruit juice and dried fruits were core foods in the Australian Dietary Guidelines and are used for reasons beyond sweetness such as colour, texture and flavour. They considered the inclusion of fruit ingredients would not allow differentiation between products with fruit ingredients and products with fruit ingredients plus added sugars, potentially confusing consumers and not supporting informed choice. Industry also supported more clarity in the implementation of the proposed approach and its application to alcoholic beverages, and a longer transition period (plus stock in trade arrangements) to allow alignment with other potential labelling changes under consideration in P1058 and, specific to the alcoholic beverage industry, P1049.

Public health, academia and consumer submitters did not support the proposed approach as they considered the 'added sugar' definition was not comprehensive and to be fit for purpose needed to be suitable for broader utility (i.e. added sugars in the NIP and the Health Star Rating (HSR)). They considered not including all processed fruit and vegetables in the definition limited its usefulness, perpetuated consumer confusion about natural sources of sugar and their health implications, and did not support consumers to make choices in line with dietary guidelines. They also did not support claims being permitted on single ingredient foods such as fruit juice and honey as sold.

Most government submitters were supportive of the proposed approach based on the addition of ingredients. However, these submitters noted the consumer evidence indicated 'no added sugar' claims increase perceived healthfulness of food products, did not support single ingredient foods when sold (e.g. fruit juice) being permitted to make claims, and raised concerns about the clarity and enforceability of the proposed claim conditions. Some suggested FSANZ consider setting criteria for foods high in sugar and whether such products should be permitted to make claims. Some also suggested that as P1062 and P1058 are part of staged work and closely related, FSANZ should consider aligning transitional arrangements so the implications of each proposal can be considered together.

The submissions from the NHMRC and MoH provided views about the proposed approach and alignment with their country's respective dietary guidelines. The MoH did not support the proposed approach noting to align with New Zealand's dietary guidelines, sugars that are naturally occurring in processed fruit products e.g. fruit juice must be captured when added to foods and when a food for sale because:

- the fruit has undergone processing to increase the concentration of naturally-occurring sugars which contribute sugar and energy to the diet, and these products are used as a substitute for sugar
- FSANZ's consumer evidence shows consumers generally had more positive attitudes towards sugars perceived as 'natural' and may not view these as added sugar
- non-alcoholic beverages, including fruit juice and fruit drinks, are major contributors of added sugars in New Zealanders' diets.

The NHMRC indicated the proposed approach is generally consistent with the recommendations in the 2013 Australian Dietary Guidelines to limit intake of foods containing added sugars and that it may help clarify potential consumer misunderstanding of ingredients/processes which sweeten and increase the content of mono- and disaccharides in food.

3.1.2 Government

Following public consultation and further consideration of the evidence, FSANZ sought the views of the NHMRC and MoH about the amended approach to the claim conditions at the approval stage.

The NHMRC indicated support for retaining the approach that foods containing added sugars (as defined) not be permitted to make claims. They also noted the revised approach may reduce consumer confusion about the nutritional value of 'added sugars' and foods high in intrinsic sugar which they support as consistent with the intent of the Australian Dietary Guidelines to limit intake of added sugars.

The MoH reiterated the view from their submission, noting processed fruit products are sources of concentrated fruit sugars which contribute both sugar and energy to the diet and 'added sugars' in the Code must capture sugars from these products to enable consumers to make informed choices in line with the Eating and Activity Guidelines.

3.1.3 World Trade Organization (WTO) notification

On 11 September 2023 FSANZ made a notification to the World Trade Organization (WTO) for this proposal in accordance with the WTO Technical Barriers to Trade (TBT) Agreement.

Table 2 in Appendix 1 provides FSANZ's response to comments received from two international industry beverage associations which noted they did not support restriction on claims for foods containing fruit ingredients, in particular juices.

3.2 Risk assessment

3.2.1 Products carrying 'no added sugar(s)' claims

3.2.1.1 Number of products carrying 'no added sugar(s)' claims

At CFS, data was collected for selected product categories to understand the prevalence and extent of 'no added sugar(s)' and 'unsweetened' claims in the Australian and New Zealand market. For Australia, FSANZ scanned three major supermarkets to identify products carrying a 'no added sugar(s)'/ 'unsweetened' claim. For New Zealand, data was extracted by New Zealand Food Safety (NZFS) from the GS1 On-Pack database for products containing the term 'no added sugars' or 'unsweetened' in the 'claims' field. This resulted in 1,125 (650 Australian and 475 New Zealand) products being identified. However, it was noted the actual number of products was likely to be much higher as not all product categories were included for both countries. In Australia, data collection did not capture all product sizes and flavour options available across different retailers. In New Zealand, not all 'no added sugars'/'unsweetened' claims may be captured in the 'claims' field.

'No added sugar(s)'/ 'unsweetened' claims were most commonly found on fruit juice (including blends) and fruit drinks, processed fruit products (dried fruit, fruit and nut balls, snacks), plant-based milk substitutes (almond/oat/rice milks), infant/toddler purées/foods, yoghurts and cereal-based products (breakfast cereals/muesli bars). Claims were also found on a range of other foods and beverages such as canned and frozen fruits, fruit purées, coconut waters and mineral waters. The sources of sugars or sweetness for these products varied and included naturally-occurring or inherent sugars found in fruit, dairy, grains and honey, sugars formed through hydrolysis of carbohydrates during food manufacture, and sweeteners.

Data provided in response to the CFS indicated 2,809 products carry 'no added sugar(s)'/ 'unsweetened' claims across both countries, based on:

- 1,613 products identified in The George Institute for Global Health's 2022 FoodSwitch dataset
- 1,196 products identified in New Zealand Food Safety (NZFS) GS1 On-Pack database.

Submitters to the CFS also confirmed the use of 'no added sugar(s)' claims on non-alcoholic beverages such as fruit juice (including blends) and fruit drinks, infant/toddler purées/foods, yoghurts and breakfast cereals, and limited use on alcoholic beverages such as beer.

3.2.1.2 Impact of total sugars thresholds on products containing 'no added sugar(s)' claims

Following the CFS, and based on submitter comments and consumer evidence (see sections 3.1.1. and 3.2.2), the introduction of total sugars thresholds was considered as another option for clarifying added sugars for the purposes of making voluntary nutrition content claims.

This approach was investigated as it provides consistency with existing nutrient content claims, impacts products high in naturally occurring sugar and is easier to implement and enforce.

FSANZ reviewed the total sugars content of 811 products available in Australia or New Zealand by product category to understand the impact of introducing total sugars thresholds on products currently carrying 'no added sugar(s)' and 'unsweetened' claims. This included data for 697 products collected as part of the Australian supermarket scan (650 products from the CFS, plus an additional 47 vegetable-based/containing products) and 114 products collected from a major New Zealand supermarket.

Existing domestic and international sugars thresholds used to support dietary advice and labelling requirements were reviewed to assist in determining potential thresholds (see Attachment F). To support implementation and enforcement, and ensure consistency with existing units of measure for content claims in the Code, thresholds were selected on a per 100 g basis rather than per serving or percentage of total energy.

Each of the 811 products (324 beverages and 487 foods) were initially classified according to the following three thresholds:

- ≤15.0 g/100 g – selected as the upper level of total sugars based on dietary advice to look for products containing less than 15 g/100 g total sugars
- ≤5.0 g/100 g – selected as the lower level of total sugars based on the low sugar nutrient content claim condition for solid food in Schedule 4
- ≤10.0 g/100 g – selected as the mid-point between the lower and upper sugars thresholds above. A 10 g/100 g total sugars threshold has been used to support dietary advice and international criteria for Front of Pack nutrition labels.

FSANZ then determined the total number of products falling above or below each of the thresholds (see Table 1).

Table 1: Impact of ≤5.0 g, ≤10.0 g and ≤15.0 g per 100 g total sugars thresholds on foods and beverages (n=811)

Threshold g/100 g	No. of products below (%)	No. of products above (%)
≤5.0	289 (35.6)	522 (64.4)
≤10.0	565 (69.7)	246 (30.3)
≤15.0	685 (84.5)	126 (15.5)

Further analysis was undertaken by food category to determine the number of products falling above and below each of the thresholds (see Attachment G). The analysis indicated that at a threshold of:

- ≤15 g/100 g total sugars, 84.5% of products (318 beverages and 367 foods) could continue making 'no added sugars(s)' claims. The product categories most commonly exceeding the threshold were dried fruits and fruit-based snacks such as fruit and nut balls, wraps and snack/muesli bars
- ≤10 g/100 g total sugars, 69.7% of products (253 beverages and 312 foods) could continue making 'no added sugars(s)' claims. In addition to the product categories identified above, some fruit and fruit and vegetable juice blends, canned and frozen fruits, puréed fruit products, breakfast cereals and fruit breads exceeded the threshold, however, many products within these categories were still able to make claims.
- ≤5 g/100 g total sugars, 35.6% of products (97 beverages and 192 foods) could continue making 'no added sugars(s)' claims. The product categories typically able to continue making claims included fruit drinks, vegetable juices, dairy and dairy alternatives, and canned and frozen vegetables.

In undertaking its analysis, FSANZ identified a high proportion of beverages with a total sugars content between 5 and 10 g/100 g. Given this, and the larger serving sizes often available, beverages were classified according to a fourth threshold of ≤ 7.5 g/100 g total sugars. This threshold was selected based on the existing compositional limit set out for Formulated Beverages in Standard 2.6.2 of the Code. The analysis indicated 41% of beverages could continue making a ‘no added sugar(s)’ claim at the ≤ 7.5 g/100 g total sugars threshold. The product categories most commonly exceeding the threshold were fruit juices and fruit and vegetable juice blends. Fruit drinks, vegetable juices and other non-alcoholic beverages such as coconut waters and flavoured mineral waters typically fell below the threshold.

Table 2: Impact of ≤ 7.5 g/100g total sugars threshold on beverages (n=324)

Threshold g/100 g	No. of products below (%)	No. of products above (%)
≤ 7.5	133 (41.0)	191 (59.0)

The number of products falling above or below the ≤ 10 g/100 g total sugars threshold was reassessed without beverages. The analysis indicated 64.1% of foods could continue making a ‘no added sugar(s)’ claim.

Table 3: Impact of ≤ 10.0 g/100 g total sugars threshold on foods (n=487)

Threshold g/100 g	No. of products below (%)	No. of products above (%)
≤ 10.0	312 (64.1)	175 (35.9)

3.2.2 Consumer evidence

FSANZ undertook a rapid literature review of evidence relating to consumer understanding and responses to ‘no added sugar(s)’ claims on food products (see Supporting Document 1 (SD1)). A total of 19 studies were identified, of which four were undertaken in Australia, one in New Zealand, and one across both countries. The remaining 13 studies were undertaken internationally and thus may not be directly generalisable to the Australian and New Zealand context. Evidence was also drawn from FSANZ’s 2022 Consumer Literature Review of 36 studies relating to added sugar²¹, undertaken to support P1058.

At the CFS, eight submitters highlighted 18 studies relating to consumer understanding and responses to ‘no added sugar(s)’ claims and other P1062 related topics. Twelve of these studies provided additional evidence to the 2022 P1058 Consumer Literature Review and the 2023 P1062 Consumer Evidence Summary. This was due to submitters providing evidence that was broader than the scope of these reviews. The P1062 Consumer Evidence Summary was updated to capture this additional evidence (see Appendix 3 to SD1).

The key findings from evidence provided in submissions and the FSANZ literature reviews is outlined below.

3.2.2.1 Consumer perception of ingredients as ‘added sugar’

The findings presented in SD1 suggest there is significant variation and uncertainty in consumer understanding of whether particular ingredients are added sugar and whether they are prohibited on foods bearing a ‘no added sugar(s)’ claim. For example, of the 40 ingredients tested across six studies (see Table 1 of SD1), only six ingredients were considered to be added sugar by more than two thirds of participants in at least two studies. Consumer perceptions of ingredients like honey and fructose also varied by up to 65% across studies.

²¹ [Rapid Systematic Literature Review for P1058](#)

Several studies identified that some consumers perceive ingredients that are not currently prohibited in foods making 'no added sugar(s)' claims to be added sugar. For example, 22–65% perceived fruit juice to be added sugar, while 42–55% perceived fruit paste, 45–55% perceived fruit purée, and 37–50% perceived dried fruit to be sugar when added to another food. In one German study, very high proportions of consumers thought artificial sweeteners were prohibited in products bearing 'no added sugar' claims. Other studies identified consumers may perceive ingredients seen as 'natural', such as fructose or lactose, as being inherent rather than added, when included in another food. This is consistent with findings from FSANZ's 2022 P1058 Consumer Literature Review, which found consumers generally had more positive attitudes towards sugars perceived as 'natural' and may not always view these as added sugar.

However, this perception may be reduced where consumers are more familiar with adding 'natural' sugar ingredients to other foods. For example, consumers demonstrated greater understanding that honey could be both natural and added, relative to sugar types like lactose, which are less frequently used as a sweetener in home cooking.

3.2.2.2 Consumers' literal interpretation of 'added sugar'

The 2022 P1058 Consumer Literature Review on added sugar also demonstrated consumers commonly understand added sugar to be sugar that is added during manufacturing or food preparation, rather than being inherent or naturally occurring in the food. The addition of added sugar was often perceived to be done by manufacturers. However, home cooking was also seen as a key way to reduce added sugar intake.

3.2.2.3 Influence of 'no added sugar(s)' claims on healthfulness perceptions

The majority of studies looking at healthfulness perceptions indicate 'no added sugar(s)' claims increase how healthy consumers perceive food products to be. This may be of concern if consumers perceive foods not recommended by dietary guidelines as more healthy. One New Zealand study further investigated the potential for 'no added sugar' claims to mislead consumers about the overall healthiness of a product, finding that over one third (36%) of participants believed that cereals with a 'no added sugar' claim were definitely healthy. This health halo was significantly worse for those with low incomes, less education, and non-European ethnicity, with 61% of Māori, 66% of Asian and 53% of those with Pacific ethnic backgrounds believing a 'no added sugar' claim meant that cereal was definitely healthy. A small number of studies also indicated 'no added sugar(s)' claims may make consumers perceive food products to be more natural but less tasty.

3.2.2.4 Influence of 'no added sugar(s)' claims on purchasing decisions

'No added sugar(s)' claims were found to have an influence on purchasing decisions in studies relating to toddler and infant foods, fruit beverages and fruit juices. However, the relative importance of the claim compared to other claims or product attributes depended on the product and the other attributes tested. Rankings ranged from being the most influential attribute for fruit juice when compared to other processing or formulation information, to ninth of 21 attributes related to 'better for you' frozen desserts. For infant and toddler foods, 'no added sugar' claims were less influential compared to claims such as 'natural/natural ingredients' and 'made with real fruit and vegetables', ranking sixth of eight claims. For fruit beverages 'no added sugar' or 'less sugar' claims were rated third of nine attributes, behind claims that were particularly relevant to fruit beverages, such as '100% juice' and 'a good source of vitamin C'. In one study from the UK that did not consider a specific food product, 'no added sugar' remained relatively influential (consistently ranked second of 14 attributes) irrespective of whether someone was shopping for themselves or for children or grandchildren.

Overall, the claim appears to be sought out and utilised by 40–60% of consumers. However, the influence of ‘no added sugar(s)’ claims may differ according to certain demographics. In Australian research, parents who were partnered were more likely to purchase toddler and infant food products because of a ‘no added sugar’ claim, compared to sole parents. There were conflicting results around whether those with lower or higher education were more likely to be influenced by ‘no added sugar(s)’ claims.

3.2.2.5 Perception of ‘no added sugar(s)’ as meaning no sugar or reduced sugar

Evidence also suggests ‘no added sugar(s)’ claims may not be well understood by some consumers. Between 4–50% of consumers believed a ‘no added sugar(s)’ claim meant the product could not contain any sugar, while 34–91% of consumers interpreted a ‘no added sugar(s)’ claim to mean the product has reduced sugar. One German experiment found ‘no added sugar’ claims only reduced consumers’ estimations of sugar content for chocolate and ketchup, suggesting this effect may differ by product type. The understanding of ‘no added sugar(s)’ claims to mean the food contains no sugar was more common for New Zealanders of non-European ethnicity (including Māori, Pacific and Asian), while in Australia, the misunderstanding occurred for 17–29% of participants even when total sugar information was provided on the back-of-pack.

3.2.2.6 Perceptions and behaviour relating to fruit juice and ‘natural sugar’

Several studies in the P1058 Consumer Literature Review demonstrated that sugar sources perceived as natural or less processed, including fruit sugar, honey and brown sugar, were generally viewed as healthier. Consistent with these findings, focus group evidence suggests that consumers perceive ‘natural sugar’ (including sugar from the fruit in fruit juice) as healthier than other sugar sources.

Fruit juice was generally perceived to be a healthier option than other beverage types (except for water). Consumers reported using sugar content as the main basis for evaluating how healthy a beverage was. However, there was a poor understanding of the sugar content within fruit juices, including in identifying which products had been artificially sweetened. While it was common for people to identify that juice contained sugar, the perceived nutritional benefits appeared to offset concerns about sugar content for some consumers, while some equated drinking juice with fruit consumption. Some consumers believe fruit juices are healthier than other beverages because they contain less sugar. In contrast, others were aware of the comparable sugar content to sugar sweetened beverages and viewed juices as similarly unhealthy.

In regards to consumption behaviour, in a representative survey of 2,732 South Australians, 35% had consumed 100% juice in the past week, with 10% consuming it every day. Evidence also suggests ingredients and packaging may be particularly influential for juice consumers, relative to consumers of other sugary beverages.

3.2.3 Risk assessment summary

The risk assessment has identified that ‘no added sugar(s)’ claims:

- are prevalent in the Australian and New Zealand market, particularly in certain categories of foods
- are found on products containing a wide range of total sugar contents, and vary between product categories
- are sought out by consumers but may not be well understood by some consumers

- are commonly understood by consumers to be about sugar that is added during manufacturing or food preparation, rather than being inherent or naturally occurring in the food, and
- can increase how healthy consumers perceive food products to be and can influence purchasing decisions.

These findings suggest consumers are not supported to make informed choices and could be potentially misled if 'no added sugar(s)' claims are not aligned with dietary guidelines.

3.3 Risk management

3.3.1 Overall approach to claim conditions

3.3.1.1 Decision

FSANZ's decision is to amend the conditions for making a 'no added sugar(s)' claim (and synonyms) such that a claim is not permitted if a food:

- contains as an added ingredient, or is, an 'added sugar' (as defined);
- does not contain 'added sugar' but contains more than a prescribed amount of (total) sugars.

3.3.1.2 Rationale for decision

After careful consideration of all submissions and comments received in response to the CFS (see section 3.1), and for the reasons set out in this report, FSANZ's decision is that there is a need to define and clarify added sugar for the purpose of making 'no added sugar(s)' claims to align with current dietary guideline recommendations and support consumers to make informed choices and not be misled.

To that end, FSANZ also decided to amend the approach as proposed at CFS. The condition that a claim cannot be made if 'added sugar' as defined is added as an ingredient to a food is retained but amended so that claims are not permitted for an 'added sugar' which is sold as the food (e.g. jar of syrup, honey), and to provide more clarity in defining 'added sugar' (see section 3.3.2.1). In addition, the approach of not permitting claims for the addition of listed fruit products has been replaced with a condition that a food not containing 'added sugar' as defined is disqualified from making the claim if it contains more than a prescribed amount of (total) sugars (see section 3.3.3.1). The approach of permitting claims when the sugars concentration is $\leq 1.5\%$ from the hydrolysis of carbohydrates during food manufacture (and the food otherwise meets claim conditions) has been retained but broadened to all food with sugars produced from hydrolysis rather than just to cereal-based plant milks as proposed in the CFS (see section 3.3.3.2).

The change in approach was based on consumer evidence of perception of healthiness relating to naturally occurring sugars, alignment with dietary guidelines, ministerial policy guidance, submitter feedback including from government agencies responsible for the dietary guidelines, and to provide clarity and enforceability. Further information on the reasons for the amended approach to the claim conditions is provided in the following sections.

The revised approach still recognises the original intent during the development of Standard 1.2.7 to promote informed choices in line with dietary guidelines and to minimise the risk of consumers being misled by claims. In addition, consistent with the approach under P293, the relative contribution of a potential source of added sugar to the diet is not considered.

However, as was the case when the existing conditions were developed, consideration has been given to ingredients that are used for sweetening purposes (see section 2.5). The approach of setting disqualifying criteria to reduce the risk of consumers being misled is also consistent with how other nutrition content claims are regulated in Schedule 4 (e.g. conditions for fatty acid nutrition content claims).

3.3.1.3 Relationship to P1058

As noted in section 2.2.1, the FMM asked FSANZ to stage work on added sugars by considering incorporating a definition of added sugars in the Code to align added sugar claims with dietary guidelines, while progressing consumer research work on including added sugars in the NIP under P1058.

While the scope of P1062 (see section 1.4) is limited to definition and clarification of added sugars for the purposes of making 'no added sugar(s)' and 'unsweetened' (or synonyms) nutrition content claims, FSANZ acknowledges there is an interrelationship and regulatory overlap with P1058 which is examining the need to amend the Code to include added sugars information in the NIP. In particular, how added sugar is defined and therefore captured is integral to both proposals in regard to supporting consumers to make informed choices in line with dietary guidelines and ensuring they are not misled.

Many submitters to the CFS raised as an issue the outcomes from P1062, specifically the definition for 'added sugar', having broader impact including for future work on P1058, suggesting work on these two proposals should be done in conjunction. Others considered the proposed definition should be fit for purpose for all instances so that added sugars are defined consistently throughout the Code, preventing any confusion, and that consumers would benefit from a definition that could be used for a variety of purposes including claims, the NIP, HSR etc.

Consistent with the FSANZ Act, FSANZ must assess a proposed regulatory measure for the purpose of achieving the intended regulatory outcome. In the case of P1062, as requested by food ministers, this was to consider amending the Code to clarify and define added sugars for the purposes of making 'no added sugar(s)' claims to ensure these claims align with dietary guidelines and support consumers make informed choices.

FSANZ recognises the importance of having regulatory coherence in the Code and that the work on added sugars labelling under P1062 and P1058 is linked. As stated in section 2.2.1, work on the consumer research to inform P1058 is progressing. Given the interrelationship between P1062 and P1058, FSANZ expects Code amendments arising from P1062 will need to be reviewed by FSANZ as part of its assessment in P1058. This will include whether the 'added sugar' definition for claims purposes is appropriate (or not) for NIP labelling purposes or whether consequential changes will be required to P1062 claim conditions to ensure regulatory coherence. This will be particularly important in light of the findings from the P1058 consumer research. Consequently, following the CFS, FSANZ has extended the transitional arrangements for P1062 to allow the Code amendments under P1062 to be considered in the context of P1058 and before they come into full effect (see section 4.1).

3.3.2 Defining 'added sugar' for claims

3.3.2.1 Decision

FSANZ's decision is that:

- a food for sale displaying a 'no added sugar(s)' claim must not be an 'added sugar' and must not contain an 'added sugar' as an added ingredient.

- 'added sugar' is defined for the purpose of 'no added sugar(s)' claim conditions to mean the following derived from any source:
 - hexose monosaccharides and disaccharides;
 - low energy hexose monosaccharide D-tagatose (see section 3.3.2.2);
 - starch hydrolysate;
 - glucose syrup;
 - maltodextrin and similar products;
 - products derived at a sugar refinery, including brown sugar, molasses, raw sugar, golden syrup, treacle;
 - icing sugar;
 - invert sugar;
 - sugar and sugar syrups derived from plants;
 - honey;
 - malt;
 - malt extracts;
 - concentrated fruit juice;
 - deionised fruit juice;
 - concentrated vegetable juice; and
 - deionised vegetable juice.
- concentrated fruit juice, concentrated vegetable juice, deionised fruit juice and deionised vegetable juice are not 'added sugar' when the food for sale is a:
 - brewed soft drink
 - formulated beverage
 - juice blend
 - fruit drink
 - fruit juice
 - vegetable juice
 - water-based beverage.
- the existing approach for 'no added sugar(s)' claim conditions in relation to the incidental presence of 'added sugar' in foods from carriers of nutrients, processing aids, flavourings or other food additives is maintained. This issue will be considered under P1058 (see section 3.3.2.4).

FSANZ clarifies that if fermented foods (including alcoholic beverages) have 'added sugar' as an ingoing ingredient, and residual 'added sugar' is present in the food after fermentation, the food cannot display a 'no added sugar(s)' claim (see section 3.3.2.3).

3.3.2.1.1 *Rationale for decision*

After careful consideration of all submissions and comments, and for the reasons summarised in this report, FSANZ has decided to amend the conditions for 'no added sugar(s)' claims so that a food for sale must not be an 'added sugar' (e.g. honey sold as the food), in addition to not containing 'added sugar' as an added ingredient as proposed in the CFS. Public health, consumer, academia and some government submitters considered that 'single-ingredient' foods such as honey should not be able to make a claim given they are high in sugar. As discussed in section 3.2.2, the consumer evidence suggests that a 'no added sugar(s)' claim may mislead consumers as to the overall healthiness of a food, and consumers may perceive that the food does not contain sugar or has reduced sugar content. Not permitting a claim on a food for sale that is an 'added sugar' therefore reduces the risk of consumers being misled about the healthiness of these foods and supports dietary guideline recommendations to limit sugar intake.

FSANZ also decided to amend the definition of 'added sugar' proposed in the CFS for clarity and to add additional sugar sources and exemptions as follows:

- a minor grammatical amendment has been made to define 'added sugar' (singular) rather than 'added sugars' (plural)
- concentrated vegetable juice and deionised vegetable juice have been added to the definition of 'added sugar'
- an exemption has been applied to concentrated or deionised fruit and vegetable juices when the food for sale is a:
 - brewed soft drink
 - formulated beverage
 - juice blend
 - fruit drink
 - fruit juice
 - vegetable juice or
 - water-based beverage
- the low-energy sugar D-tagatose is explicitly identified in the definition (see discussion in section 3.3.2.2)
- 'glucose syrup' is listed separately from 'maltodextrin and similar products'.

(Note: FSANZ's decisions about residual sugars following fermentation and incidental sugars is explained in sections 3.3.2.3 and 3.3.2.4).

Public health, academia, consumer and some government submitters considered the definition of 'added sugars' proposed in the CFS was not broad enough and the fruit products listed in the proposed conditions should be explicitly captured in the definition. Reasons included alignment with dietary guidelines (particularly New Zealand guidelines for fruit juice) and broader utility of the definition for other purposes (see section 3.3.1.3 above). These submitter groups also considered that processed vegetable products should be treated the same as fruit products, noting they can have similar sugar concentration and can be used to sweeten foods (e.g. beet juice concentrate). An example provided in submissions was a vegetable juice concentrate marketed for use as sweetener. Industry submitters considered fruit and vegetable products should not be defined as 'added sugars' or otherwise captured in claim conditions as they contribute beneficial nutrients to the diet, are identified as core foods in dietary guidelines, and are used for other technical purposes (e.g. colour, flavour).

FSANZ considers the products listed in the definition of 'added sugar' align with the types of 'sugars' and sugar sources identified in dietary guideline recommendations as added sugars to be limited. The guidelines identify *concentrated fruit juice* as an added sugar in the context of canned or frozen fruits and vegetables. New Zealand dietary guidelines note sugars are *added to foods in the form of white, brown or raw sugar, honey, syrups and extracts*. The New Zealand guidelines for babies and toddlers also lists different forms of sugar that can be used as ingredients, including different types of sugar and syrups (e.g. brown, cane and coconut sugar, malt and maple syrup), fruit juice concentrate and honey.

FSANZ has therefore retained the sugar sources proposed at CFS but has added concentrated vegetable juice and deionised vegetable juice to the definition for consistency with concentrated or deionised fruit juice. This recognises the existing and potential future practice of using concentrated vegetable juice as sweeteners, similar to concentrated fruit juice.

The NHMRC and MoH in their submissions noted that both the Australian and New Zealand dietary guidelines do not explicitly identify processed fruit products as ‘added sugar’ but confirmed that sugars occurring naturally in foods such as fruit juice and dried fruits are to be limited. To support this recommendation, foods that are, or contain, fruit products (and do not contain ‘added sugar’) will be subject to the new (total) sugars disqualifying criteria discussed in section 3.3.3.1.

FSANZ has reconsidered the exemption proposed in the CFS for concentrated fruit juice when the food for sale is fruit juice. Current claim conditions in Schedule 4 of the Code do not permit a food to make a ‘no added sugar(s)’ claim if it contains concentrated or deionised fruit juice, unless the food is one of the beverages listed in the conditions (includes juices, fruit drinks, formulated beverages, etc—see section 2.1). The approach proposed at CFS limited the exemption to fruit juice only. Submitters from all groups noted that fruit juice using concentrated juice would therefore be able to make a claim but a fruit drink or a flavoured water would not, despite these products having a lower sugar concentration in many cases. FSANZ has extended the exemption to allow a broader selection of beverages to make a ‘no added sugar(s)’ claim if they contain concentrated fruit juice and deionised fruit juice, and applied the same exemption to concentrated vegetable juice and deionised vegetable juice (see listed beverages above). However, this exemption does not apply to the disqualifying criteria for (total) sugars, meaning these beverages will need to meet the (total) sugars threshold to be able to make a ‘no added sugar(s)’ claim (see section 3.3.3.1).

To assist with clarity and based on submissions (see Appendix 1), FSANZ has made a minor amendment to list ‘glucose syrup’ separately to ‘maltodextrin and similar products’ to clarify that the products referred to are those similar to maltodextrin. Examples of ‘similar products’ and of other products listed in the definition have been provided in the explanatory statement (Attachment B) to provide further clarification.

3.3.2.2 Low energy sugars

3.3.2.2.1 Decision

FSANZ’s decision is **not to permit** ‘no added sugar(s)’ claims on foods containing the hexose monosaccharide D-tagatose as an ingredient, consistent with existing claim conditions in the Code.

FSANZ has also decided **not to permit** ‘unsweetened’ claims on foods containing low energy sugars (monosaccharides and disaccharides) as ingredients, listed in subsection S11—2(3) of Schedule 11.

3.3.2.2.2 Background

Currently foods displaying ‘no added sugar(s)’ claims are not permitted to contain added hexose monosaccharides as discussed in section 2.1 above.

D-tagatose is a lower energy hexose monosaccharide permitted for use in Australia and New Zealand. While specific consideration has not previously been given to whether foods containing D-tagatose should be permitted to display ‘no added sugar(s)’ claims, the current claim conditions do not permit such claims.

To date, D-tagatose is the only low energy monosaccharide or disaccharide permitted for use, however, as noted in section 2.2.3 above, FSANZ is currently assessing Application A1247 - D-allulose as a novel food.

D-tagatose has an energy value of 11 kJ/g compared with 17 kJ/g (4.0 kcal/g) for carbohydrates in the Code (see subsection S11—2(3) of Schedule 11). D-tagatose has technological properties similar to traditional sugars, however, it differs in that it is only partially absorbed by the body, resulting in its reduced energy value. About 20–25% is absorbed from the small intestine, leaving 75–80% which is available for fermentation in the large bowel. The major fraction of D-tagatose reaches the large intestine unabsorbed (where it undergoes fermentation). D-tagatose does not promote tooth decay and has minimal effects on blood glucose and insulin levels.

There is no reference to low energy sugars in the dietary guidelines.

3.3.2.2.3 *Rationale for decision*

FSANZ has decided to maintain the existing claim conditions such that foods containing D-tagatose (a hexose monosaccharide) as an ingredient are not permitted to display a 'no added sugar(s)' claim because of the energy content of D-tagatose. The dietary guidelines recommend limiting added sugars intake because of the energy contribution from sugars to the diet and because sugars contribute to tooth decay. While D-tagatose is a lower energy sugar (and does not contribute to tooth decay), it contains 65% of the energy content of other monosaccharides and disaccharides (11 kJ/g vs 17 kJ/g used in the Code).

FSANZ has also decided not to permit 'unsweetened' claims on foods containing low energy sugars (monosaccharides and disaccharides) as ingredients, listed in subsection S11—2(3) of Schedule 11, given low energy sugars are used to sweeten foods. At this stage D-tagatose is the only low energy monosaccharide or disaccharide listed in subsection S11—2(3) of Schedule 11.

The approach for D-tagatose aligns with the United States Food and Drug Administration's (USFDA) clarification that D-tagatose is an added sugar. It appears that while other countries do not explicitly mention low energy sugars in conditions for 'no added sugar(s)' claims, their general conditions appear not to permit low energy sugars (that are monosaccharides or disaccharides) in foods displaying the claim (see Attachment D).

Of those submitters who commented on low energy sugars (noting nearly half of submitters to the CFS did not comment), academia, public health and consumer submitters generally supported the approach (see Appendix 1). They suggested foods with any low energy sugars should not be able to display 'no added sugar(s)' claims because they contribute energy to the diet, can be twice as sweet as sucrose and have similar technical properties to traditional sugars. Government submitters generally supported the approach for D-tagatose because of its moderate energy content. Industry submitters did not support the approach for D-tagatose because of its reduced energy contribution to the diet, reduced risk of dental caries and different metabolic pathway compared with traditional sugars.

FSANZ's approach of not permitting 'unsweetened' claims on foods containing low energy sugars (monosaccharides and disaccharides) as ingredients, listed in subsection S11—2(3) of Schedule 11 was supported by all submitters who commented on this issue.

Due to varying energy levels of the low energy sugars and the potential for these substances to vary in other properties, FSANZ considers permissions to make claims should be assessed on a case-by-case basis when permission for use is sought. In making that assessment FSANZ must have regard to a number of matters, including risk analysis based on best available evidence and undertaking public consultation, in meeting its statutory objectives of the protection of public health and safety, provision of information to enable informed choice and prevention of misleading and deceptive practices.

3.3.2.3 Residual 'added sugar' after fermentation

3.3.2.3.1 Clarification of intent

FSANZ clarifies that if fermented foods (including alcoholic beverages) have 'added sugar' as ingoing ingredients, and residual 'added sugar' is present in the food after fermentation, the food cannot make a 'no added sugar(s)' claim.

3.3.2.3.2 Background

FSANZ has considered the presence of residual sugars after fermentation in the context of 'no added sugar(s)' claim conditions in response to submitter requests for clarity.

During fermentation, depending on the ingoing ingredients which may include sugars, starch may be converted to resistant starch or sucrose, sucrose may be converted to glucose, and glucose may be converted to alcohols, gases and acids. The final carbohydrate content depends on the extent of fermentation.

Fermentation occurs in a range of foods including sourdough bread, other breads, wines, beers, brewed soft drinks, traditional soy sauce, sauerkraut, pickled vegetables, yoghurt, cheese and other dairy foods. Sugar may be added as an ingredient to provide carbohydrate for the fermentation and/or the carbohydrate may be present as a component of non-sugar ingredients. In beer making, sucrose, glucose or maltose syrups can be added before fermentation which together with the sugars in malted barley are fermented, leaving a level of residual sugars in the final product.

In Brazil, 'no added sugar(s)' claim conditions prevent foods with residual 'added sugars' after fermentation from making a claim. The USFDA is not explicit about this, however, 'added sugars' in the nutrition facts table must include residual 'added sugars' after fermentation.

3.3.2.3.3 Stakeholder views in September 2022

At the September 2022 targeted consultations for P1058, which focussed on defining added sugars for the purpose of including added sugars in the NIP, jurisdictions and public health stakeholders generally supported including residual 'added sugars' after fermentation as 'added sugars'. Industry stakeholders had mixed views with some supporting including residual 'added sugars' after fermentation as 'added sugars' while others suggested exempting incidental presence of 'added sugars' should be considered in this context as very small amounts of residual 'added sugars' could be present. Submitters from the alcoholic beverage sector were opposed to including residual 'added sugars' after fermentation as 'added sugars', particularly if fruit juice was considered 'added sugars'. The sector suggested a threshold of 1% sugar concentration be applied to beer with 'added sugars' only needing to be declared on products with sugar concentrations above the threshold. Some cider manufacturers add sugar before fermentation, while others only use fruit juice. While cider makers supported juice concentrate and sucrose as being 'added sugars', they considered cider made only with fruit juice should be able to display a 'no added sugar(s)' claim.

3.3.2.3.3 Discussion

FSANZ's understanding is that the Code currently provides that, if fermented foods (including alcoholic beverages) have an 'added sugar' (as defined) in the ingoing ingredients, and residual 'added sugar' is present in the food after fermentation, then 'no added sugar(s)' claims cannot be made.

This approach is consistent with the overall intent of claim condition (b) in the approved variation (see Attachment A), whereby foods with added ingredients captured in condition (e) from any source cannot display a 'no added sugar(s)' claim. FSANZ considers it is not necessary to specify this in the definition of 'added sugar' in the draft variation.

As residual sugars from fermentation was not discussed in the CFS report, many submitters did not comment on this topic. However, public health submitters suggested foods with residual hexose mono- and/or disaccharides after fermentation should not be able to display 'no added sugar(s)' claims and that such sugars should be explicitly listed in the 'added sugars' definition. There were requests from submitters (government, industry and the alcoholic beverage sector) for FSANZ to clarify whether foods containing residual 'added sugars' after fermentation could display a 'no added sugar(s)' claim. It was suggested malt and malt extracts should not be 'added sugars' when they are added for the purpose of fermentation as often no sugars remain after fermentation of alcoholic beverages.

We note submitters, particularly those in the alcoholic beverage sector, were concerned about the implications for the declaration of 'added sugars' in the NIP, should the presence of residual 'added sugars' and/or residual sugars from fruit-based ingredients such as fruit juice after fermentation prevent the use of 'no added sugar(s)' claims. The change to applying disqualifying criteria (total sugars concentration) (see section 3.3.3.1) to claim permissions for foods without 'added sugars' in condition (b)(ii), means the presence of residual sugars from fruit-based ingredients, including fruit juice, will not affect the display of 'no added sugar(s)' claims on fermented alcoholic beverages unless the total sugars concentration of the final product is over 7.5% total sugars concentration, as applied to all beverages.

Submitters to the CFS report and stakeholders at the 2022 targeted consultation meetings suggested the application of a threshold sugars concentration to permit 'no added sugar(s)' claims when small amounts of sugars (below the threshold concentration) remain in the food or beverage after fermentation and to exempt foods with residual 'added sugars' below a threshold from having to include 'added sugars' in the NIP. FSANZ considers that it is in line with the overall approach for the definition of 'added sugar' for 'no added sugar(s)' claim conditions, applying a threshold is not appropriate. A food containing 'added sugar' as an added ingredient is not permitted to make a claim. In relation to potential requirements for declaring residual 'added sugar' after fermentation in the NIP, this will be considered under P1058.

3.3.2.4 Incidental presence of 'added sugar'

3.3.2.4.1 Decision

FSANZ's decision is to maintain the existing approach for 'no added sugar(s)' claim conditions in relation to the incidental presence of 'added sugar' (as defined) in foods from carriers of nutrients, processing aids, flavourings or other food additives. This issue will be considered under P1058.

3.3.2.4.2 Background

Very small amounts of sugars may be present in foods from carriers of various substances such as vitamins, minerals, processing aids (e.g. enzymes), colour and flavour compounds or other food additives. Under the existing 'no added sugar(s)' claim conditions, foods displaying 'no added sugar(s)' claims cannot contain added sugars*, honey, malt, or malt extracts.

At the September 2022 targeted consultations for P1058, there was general support from public health, government and industry stakeholders of the application of a threshold sugars concentration to foods with carriers containing 'added sugars' in the context of declaring 'added sugars' in the NIP. There were differing views on what a sugars concentration threshold might be (e.g. <1 g/ 100 g/ mL, <0.5 g/100 g/ mL, <0.05 g/100 g/ mL).

Industry stakeholders specifically mentioned a threshold was needed so as not to prevent 'no added sugar(s)' claims on foods with negligible sugars added, and noted a threshold would be relevant to other sources of incidental added sugars (e.g. fruit juice concentrates used as an acidity regulator), not just carriers. Stakeholders indicated for many foods, the amount of sugars in carriers would not affect sugars declarations in the NIP. Government stakeholders commented that allowing a threshold could conflict with a 'no added sugar(s)' claim.

3.3.2.4.3 *Rationale for decision*

FSANZ's decision is to maintain the existing approach for 'no added sugar(s)' claim conditions in relation to the presence of incidental 'added sugar' (as defined) in foods from carriers of nutrients, processing aids, flavourings or other food additives.

At CFS, industry submitters who commented about the incidental presence of 'added sugars' suggested foods with ingredient carriers containing 'added sugars' should be able to make a 'no added sugar(s)' claim to reduce complexity for industry implementation, provide clarity for enforcement and support industry innovation (see Appendix 1). Submitters also noted incidental amounts of 'added sugars' can be present in substances other than just carriers, for example dietary fibres. FSANZ therefore considers the presence of incidental 'added sugars' in foods needs to be considered more broadly and in conjunction with setting requirements for declaring 'added sugars' in the NIP.

3.3.3 **Clarifying claim conditions**

As proposed in the CFS, in addition to defining 'added sugars' for the purpose of claim conditions (see section 3.3.2), FSANZ has considered whether other foods should be captured in claim conditions to align with dietary guidelines. After consideration of submissions and comments received, and for the reasons set out below, FSANZ has amended the approach proposed in the CFS of including sugars from listed fruit products to instead applying disqualifying criteria for all foods which do not contain 'added sugar' but contain sugars from 'naturally occurring' or 'inherent' sugars (see section 3.3.3.1). FSANZ has also amended the approach for sugars produced from hydrolysis of carbohydrates during food manufacture (see section 3.3.3.2).

3.3.3.1 ***Disqualifying criteria based on (total) sugars***

3.3.3.1.1 *Decision*

FSANZ's decision is that a food which does not contain 'added sugar' is disqualified from making a 'no added sugar(s)' claim if it contains more *sugars* (i.e. monosaccharides and disaccharides) than:

- 10.0 g /100 g for solid food
- 7.5 g /100 mL for liquid food.

3.3.3.1.2 Rationale for decision

In addition to the claim condition that a food cannot be or contain ‘added sugar’ (as defined—see section 3.3.2), FSANZ has decided to disqualify a food from making a ‘no added sugar(s)’ claim if it contains more than a prescribed amount of (total) *sugars*. In this case, *sugars* means monosaccharides and disaccharides as defined in Standard 1.1.2 of the Code for the purpose of Schedule 4. FSANZ has determined the prescribed amounts of sugars as 10 g/100 g for solid food and 7.5 g/100 mL for liquid food.

The disqualifying criteria based on (total) sugars content replaces the approach proposed in the CFS of not permitting a claim when listed fruit products are added as an ingredient (i.e. dried fruit (except whole, cut or chopped), fruit juice, fruit and fruit juice powders, fruit pulps and purées). FSANZ reconsidered the approach proposed at CFS in light of submitter views. Similar to the intent of the CFS approach, the new (total) sugars disqualifying criteria is intended to capture concentrated sources of sugars from fruit products which are recommended to be limited in the diet, to minimise the risk of consumers being misled by claims and support choices consistent with dietary guidelines.

As discussed in section 3.1.1, industry submitters generally opposed the inclusion of fruit products noting fruit juice and dried fruit are core foods in Australian dietary guidelines, fruit products are used for other technical reasons (e.g. flavour, colour), and consumption of fruit in Australia and New Zealand is inadequate. Public health, academia and consumer submitters, and most government submitters including agencies responsible for dietary guidelines, supported the inclusion of fruit ingredients in claim conditions although many sought these to be defined as ‘added sugars’ (see section 3.3.2.1.1). However, most of these submitters did not support ‘single ingredient’ foods such as fruit juice being able to make a claim given such foods can be high in sugar and would be inconsistent with dietary guidelines and consumer evidence about perception of healthiness. As discussed in section 3.3.2.1.1, these submitter groups also sought inclusion of processed vegetable products in claim conditions given these can also be high in sugar. The approach of setting conditions based on (total) sugar content was suggested by some government submitters, noting this could capture foods with a high sugar content.

In addition to claim conditions for ‘added sugar’ (see section 3.3.2), prescribing disqualifying criteria based on (total) sugars content supports consumers to make choices in alignment with Australian and New Zealand dietary guidelines which recommend limiting or avoiding added sugars and foods naturally high in sugar. The disqualifying criteria will apply to all foods which contain ‘inherent’ or ‘naturally occurring’ sugars from any source including fruit and vegetable products. Setting sugar content thresholds of ≤ 10 g/100 g for solids and ≤ 7.5 g/100 mL for liquids (see discussion on these thresholds further below) will mean that foods that contain sugars greater than these amounts will not be able to make a ‘no added sugar(s)’ claim.

Although fruit products such as fruit juice and dried fruit are not specified as ‘added sugars’ in dietary guidelines and are identified as a serve of fruit in Australian guidelines, they are recommended to be limited or avoided due to their high energy density or high sugar content. Some public health, consumer, academia and government submitters noted that fruit juice and fruit purée are sold in serves larger than dietary guideline recommendations (e.g. 500–600 mL for fruit juice, compared to 125 mL serving size, occasionally, as recommended in Australian dietary guidelines). Australian dietary guidelines note that fruit juice can displace other nutritious foods if consumed in excess which may lead to problems such as obesity. New Zealand dietary guidelines identify fruit juice as a major source of added sugars in New Zealanders’ diets.

While dietary guidelines do not specifically identify processed vegetable products as being of public health concern, the disqualifying criteria will capture sugars from any source, including vegetable products, to support the intent of the dietary guidelines in regard to foods with higher amounts of naturally occurring sugars.

Setting disqualifying criteria based on sugars content is supported by the consumer evidence (see section 3.2.2) which indicates that 'no added sugar(s)' claims can have an influence on food purchasing decisions, can increase consumer perceptions about the healthiness of a food, and may mislead consumers as to the overall healthiness of a food. Consumers also perceive 'natural sugars' (including fruit sugars) to be healthier and may believe that a claim means a product may not contain any sugar or has reduced sugar.

The evidence also suggests that fruit juice is generally viewed as a healthier option compared to other beverages, and suggests some Australian consumers are consuming fruit juice more regularly than recommended in dietary guidelines. Permitting a claim on foods which contain a significant amount of sugar from natural sources (including fruit juice) could therefore mislead consumers about the healthiness of the food and potentially lead to choices which do not support dietary guidelines. The new approach is therefore consistent with ministerial policy guidance (see section 2.3) as it reduces the risk of consumers being misled about the healthiness of a food and of promoting consumption of foods inconsistent with dietary guidelines.

The new approach will be simpler to implement and enforce, noting a number of industry and some government submitters raised significant issues about clarity and enforceability of the fruit-based approach proposed in the CFS (see Appendix 1). The approach will continue to allow product innovation and minimise the risk of reformulation where fruit and vegetable products are replaced with sucrose or artificial sweeteners and flavours/colours as raised by industry and government submitters, and the subsequent risk of reducing fruit and vegetable intake as raised by industry submitters. It will allow for the use of fruit and vegetable products for other technical functions other than sweetening (e.g. colour, texture or flavour) and recognises that some fruit and vegetable products contain similar beneficial nutrients and sugars concentration as fresh fruit and vegetables.

Internationally, claim conditions are generally based on addition to foods (see section 2.6). However, Health Canada sets similar disqualifying criteria where foods that meet or exceed the thresholds for 'high-in sugars' for a front-of-pack nutrition symbol cannot make a 'no added sugar' claim (see Attachment D). FSANZ considers that the combined approach of disqualifying claims based on 'added sugar' and (total) sugars content supports the dietary guidelines in Australia and New Zealand.

Sugars threshold

As further discussed in section 3.2.1.2, FSANZ considered four different sugars thresholds for the disqualifying criteria:

- ≤ 5 , 10 and 15 g/100 g for both solid and liquid foods based on existing 'low sugar' claim requirements and domestic and international thresholds used for dietary guidance and labelling requirements, and
- ≤ 7.5 g/100 mL for liquid foods based on existing compositional limits for Formulated Beverages.

FSANZ considers a threshold of ≤ 10 g/100 g sugars for solid foods achieves an appropriate alignment with nutrition advice in Australia and New Zealand for choosing foods based on sugar content, which varies between 10 g/100 g and 15 g/100 g (see Attachment F).

A threshold of 15 g/100 g allows a large proportion of products currently making claims (around 85%) to continue to do so including foods which may contain higher amounts of sugars (e.g. processed fruit, some breakfast cereals). The lower threshold of 5 g/100 g (or 2.5 g/100 mL for liquid foods) was not deemed appropriate given this is the criteria for a low sugar claim rather than identifying foods that may contain higher amounts of naturally occurring sugar as identified in dietary guidelines.

FSANZ has decided to set a separate threshold of ≤ 7.5 g/100 mL for liquid foods (i.e. beverages) noting the 10 g/100 g threshold would allow most fruit juice products to make a claim and because beverages are often available in larger serving sizes. Based on the dietary guidelines and consumer evidence as discussed above, applying a threshold for liquids will prevent beverage products with higher amounts of naturally occurring sugar from making a 'no added sugar(s)' claim. As noted above, this is supported by public health, consumer, academia and most government submitters.

The threshold will continue to allow most fruit drinks, vegetable juices and other non-alcoholic beverages (that do not contain 'added sugar') to make the claim. As discussed in section 3.3.2.1.1, submitters noted that the approach proposed at CFS would not allow a fruit drink (without sugar added), or other beverages such as flavoured water, to continue to make a claim despite having lower sugar content in support of dietary guidelines. Setting a separate threshold for liquids and solids is consistent with existing nutrition content claim conditions for risk nutrients in the Code (e.g. low sugar and low saturated fat).

Consistent with the units of measure used in the Code for content claims relating to risk-increasing nutrients such as fat, saturated fat, sugar and salt, FSANZ has decided to base the sugars thresholds on a 'per 100 g' or 'per 100 mL' basis. This also reflects that Australia and New Zealand do not have standardised serving sizes and otherwise prevents serve sizes being manipulated to achieve a size which meets the criteria.

While FSANZ proposed in the CFS to provide specific exemptions for whole, cut or chopped dried fruit, canned and frozen fruit, lemon and lime products, we consider that the new disqualifying criteria for solids and liquids appropriately addresses such products. As noted in section 3.2.1.2, most foods sold as dried fruit currently making a 'no added sugar(s)' claim will exceed the 10 g/100 g threshold. Most snack foods made with dried fruit (e.g. fruit and nut balls, fruit wraps) currently making the claim will also exceed the threshold. While industry submitters supported dried fruit (in any form) being able to make a claim, public health, consumer and academia submitters did not support an exemption for dried fruit given its high sugar content and dietary guideline recommendations. There were mixed views among some government submitters. As discussed further above, although dried fruit is identified as a serve of fruit in Australian dietary guidelines, both dietary guidelines identify dried fruit as being high in sugar or energy density similar to fruit juice, and recommend intake be limited due to the risk to oral health. FSANZ therefore considers that dried fruit should be subject to the threshold for solid foods.

Dietary guidelines recommend canned and frozen fruit and vegetables in natural juices (not concentrates) as nutritious alternatives to fresh fruit. All canned and frozen vegetables currently making a claim will continue to be able to do so based on the 10 g/100 g solid food threshold. While many canned and frozen fruits will continue to be able to make a claim, some will exceed the threshold mainly due to the higher sugar content of the fruit itself. Some public health, consumer, academia and government submitters did not support the exemption for frozen and canned fruit products proposed at CFS as they can contain higher sugar than fresh fruit and deionised juice is often used. Some industry submitters noted that the exemption should allow for other packaging (e.g. bottles and packaging innovations).

FSANZ has decided to apply the threshold of $\leq 10\text{g} / 100\text{g}$ to all solid foods, including canned and frozen fruit and vegetables, as a consistent approach noting other claims can continue to be made, including about fruit content.

The threshold of $\leq 10\text{g} / 100\text{g}$ for solid foods will also apply to puréed infant and toddler foods. Of the puréed fruit and fruit and vegetable puréed products currently making a 'no added sugar(s)' claim, about half will exceed the threshold and will no longer be able to make the claim. Products containing a mix of fruit and vegetables more commonly fell below the threshold. Submitters had mixed views about these foods. Some government and public health submitters suggested that 'no added sugar(s)' and 'unsweetened' claims should not be permitted on such foods. Other government submitters noted there could be potential implications beyond claims given other policy activities on the composition of these foods, and that further research to understand the implications for infant foods was required. FSANZ acknowledges the ongoing work in this area and expects to review the changes made by P1062 in its assessment and decisions relating to P1058 to ensure regulatory coherence (see section 3.3.1.3).

3.3.3.2 Sugars produced from hydrolysis used during food manufacture

3.3.3.2.1 Decision

FSANZ's decision is to not permit 'no added sugar(s)' claims when the concentration of sugars in a food is increased from the hydrolysis of carbohydrates during food manufacture, except when the sugars concentration in that food is $\leq 1.5\%$ (and the food otherwise meets claim conditions).

3.3.3.2.2 Background

Monosaccharides and/or disaccharides can be formed from hydrolysis of carbohydrates during food manufacture to modify viscosity and in some cases increase sweetness without adding sugar as an ingoing ingredient. For example, in the production of oat milk, enzymes may be used to break down oat starch to reduce the viscosity of the oat slurry and control the sweetness of the product. No or less sugar may be added because of the sugars produced from hydrolysis. It is also possible to make oat milk using pre-hydrolysed oat powder but it is more expensive. FSANZ has identified that currently oat milks and other plant-based milks display the 'no added sugar(s)' claim (see section 3.2.1).

Hydrolysis of carbohydrates also generally occurs when starch is exposed to water, heat and acid during food processing (e.g. starch thickened sauce). In such situations, small amounts of sugars are unavoidably produced.

Hydrolysis is used in the production of some dairy-based foods, where the enzyme lactase is used to hydrolyse lactose into glucose and galactose to reduce lactose content. The total amount of sugars is the same after hydrolysis, however, the sweetness of the product increases.

There is no reference to sugars produced from hydrolysis during food manufacture in the dietary guidelines. Both sets of dietary guidelines recommend to enjoy a variety of nutritious foods every day, including milk and milk products. Both guidelines mention plant-based alternatives within the dairy food group and recommend that if milk substitutes are used, to choose products with added nutrients such as calcium, vitamin B12 and riboflavin.

3.3.3.2.3 Rationale for decision

FSANZ's decision is to not permit 'no added sugar(s)' claims when the concentration of sugars in a food is increased from the hydrolysis of carbohydrates during food manufacture, except when the sugars concentration in that food is $\leq 1.5\%$. The rationale for the 1.5% sugars concentration was based on plant-based milk information and data as discussed in the CFS report ([section 5.3.2 of the CFS report](#)). The process of hydrolysis is needed to produce cereal-based plant milks of an appropriate viscosity and this results in an unavoidable increase in sugars concentration.

In response to submitter comments about hydrolysis being common in food processing and often resulting in small amounts of sugars, in some cases unavoidably being produced, we have broadened the application of the claim disqualifying criteria of more than 1.5% sugars to all foods with sugars produced from hydrolysis (rather than just to cereal-based plant milks as proposed in the CFS). Small amounts of sugars produced by hydrolysis during food manufacture will have a minimal effect on the energy content of the food and sweetness.

FSANZ therefore considers it appropriate to permit 'no added sugar(s)' claims on foods with small amounts of incidental sugars produced from hydrolysis, providing the sugars concentration of the food is $\leq 1.5\%$. This will provide clarity for manufacturers in relation to incidental sugars produced from hydrolysis noting that food will need to meet the other conditions to make a claim. As the 1.5% sugars concentration was based on data from plant-based milks, FSANZ expects to further consider the claim disqualifying criteria of more than 1.5% sugars concentration applying to all foods with sugars produced from hydrolysis under P1058 (see section 3.3.1.3).

The decision to not permit 'no added sugar(s)' claims on products above the 1.5% sugars concentration is supported by consumer evidence suggesting a 'no added sugar(s)' claim may be interpreted to mean the food has reduced sugar, relative to a food without a claim. In addition, the evidence suggests 'no added sugar(s)' claims can increase consumer perceptions about the healthiness of a food relative to foods without a claim, and may mislead as to overall healthiness of a food. In considering the use of hydrolysis in the production of some plant-based milks such as oat milk, we note almond and soy milk have sugars added and often have a similar sugars concentration to oat milks with 'no added sugar(s)' claims ([section 5.3.2 of the CFS report](#)). Not permitting the claim on cereal-based plant milks with sugars concentration above 1.5% removes the potential influence of claims on consumer understanding of sugars concentration when comparing cereal-based plant milks with other types of plant milks that have a similar sugars concentration (from sugars added as an ingredient).

The approach is broadly consistent with Codex guidelines and requirements in the USA, Brazil, Canada and the proposed approach in South Africa (see Attachment D), noting there is no specific reference to sugars from hydrolysis in EU regulations or those in Singapore. It is not clear as to whether a 'functional effect' allows a small increase in sugars concentration (Canada) or what a 'functionally insignificant' increase in sugars concentration might be (USA).

Overall, submitters who commented on this topic generally agreed foods with sugars produced from hydrolysis during food manufacture should not be able to display 'no added sugar(s)' claims, however there was a range of views on the details of the approach (see Appendix 1).

Generally academia, consumer and public health submitters did not support a sugar concentration threshold being applied to cereal-based plant milks and suggested the approach should be extended to any processing method that increases sugar content.

Government submitters also suggested the approach should be extended to any processing method that increases sugar content. Comments related to the rationale for the 1.5% threshold, applying the 1.5% threshold more broadly to other foods, and the use of the term 'cereal-based plant milk' in the Code.

While most industry submitters who commented on this topic supported foods with sugars produced from hydrolysis during food manufacture not being able to display 'no added sugar(s)' claims, some disagreed noting only incidental amounts of sugars were created by hydrolysis. Industry submitters suggested the threshold sugar concentration be increased to 2% or 3% or intentional/incidental language be used to future proof and cover other foods. Defining 'cereal-based plant milks' was suggested noting the existing 'cereal-based beverage' definition could be used.

In response to submitter suggestions the general approach be applied more broadly to any processing method that increases the concentration of sugars, FSANZ considers it is difficult to evaluate the costs and benefits of such a broad non-specific approach as a regulatory measure for the purpose of claim conditions. Should specific processing methods resulting in increased sugars concentrations be identified in the future, this could be further considered.

As discussed above, FSANZ considers it appropriate to permit 'no added sugar(s)' claims on foods with incidental amounts of sugars produced from hydrolysis during manufacture as the amount of sugars produced is small, as opposed to preventing claims on foods with any amount of sugars produced from hydrolysis. The approach will enable consumers to make informed food choices in line with dietary guidelines by distinguishing foods with 'added sugar'. While industry submitters suggested increasing the sugars concentration disqualifying criteria, in the absence of further data and information, the 1.5% concentration amount has been maintained. As noted above, we expect to further consider the claim disqualifying criteria applied to sugars produced from hydrolysis under P1058.

Sugars formed from the hydrolysis of lactose in the production of some dairy foods does not result in an increase in sugars concentration. Therefore such foods, provided they meet other 'no added sugar(s)' claim conditions, would be able to display the claim.

Under the proposed approach, some foods unable to meet the requirements for 'no added sugar(s)' claims may meet the requirements for 'low sugar' claims which are already used on some cereal-based plant milks.

3.3.4 'Unsweetened' claim conditions

3.3.4.1 Decision

FSANZ's decision is to:

- maintain the existing condition (a) that a food displaying an 'unsweetened' claim must meet the conditions for a 'no added sugar(s)' claim, noting the amended 'no added sugar(s)' claim conditions will apply
- amend existing condition (b) for 'unsweetened claims' to include maltitol and erythritol, and
- include a new condition (c) whereby 'unsweetened' claims are not permitted on foods containing low energy sugars (monosaccharides and disaccharides), as ingredients, listed in subsection S11—2(3) of Schedule 11 (see section 3.3.2.2).

3.3.4.2 Rationale for decision

FSANZ's decision is to maintain the existing condition (a) for 'unsweetened' claims, that a food must meet the conditions for a nutrition content claim about no added sugar to be able to display an 'unsweetened' claim.

In response to a submitter's suggestion to include the sugar alcohol erythritol in unsweetened claim condition (b), we reviewed the existing list of sugar alcohols. FSANZ considers the list in condition (b) should be consistent with the list of sugar alcohols in subsection S11—2(3) of Schedule 11 noting that maltitol and maltitol syrup are different products. We have therefore included both erythritol and maltitol in condition (b) for 'unsweetened' claims.

FSANZ has decided to include a new condition (c) for 'unsweetened' claims whereby such claims are not permitted on foods containing low energy sugars (monosaccharides and disaccharides), as ingredients, listed in subsection S11—2(3) of Schedule 11 (see section 3.3.2.2).

At CFS, there was broad submitter support for continuing to require foods displaying 'unsweetened' claims to meet the claim conditions for 'no added sugar(s)' claims, noting however that the approach for 'no added sugar(s)' claim conditions has been revised (see Attachment A). The main issue raised about 'unsweetened' claim conditions was the suggestion to replace the term 'intense sweetener' with non-sugar sweetener as defined by the WHO (WHO, 2023). Submitters suggested that the term 'non-sugar sweetener' would capture more sweeteners than the term 'intense sweetener'.

FSANZ is unaware of what sweeteners may not be captured by the term 'intense sweetener' and therefore sees no benefit from using the term 'non-sugar sweetener' or any other term. We note the WHO report on non-sugar sweeteners states that non-sugar sweeteners are referred to using a variety of names including *high-intensity sweeteners, low- or no-calorie sweeteners, non-nutritive sweeteners, non-caloric sweeteners and sugar-substitutes* (WHO, 2023). Additionally, the term 'intense sweetener' is used elsewhere in the Code and considering the impact of a different term for the claim conditions on other parts of the Code (e.g. food additive permissions) is not in scope for P1062.

3.3.5 Risk management summary

After consideration of all submissions and comments, and for the reasons set out in this report, FSANZ's decision is to amend the conditions for making 'no added sugar(s)' and 'unsweetened' claims (and synonyms) to support consumers make informed choices in line with dietary guidelines and not be misled and provide clarity and certainty for industry and government in the implementation and enforcement as follows:

- a food is not permitted to make a 'no added sugar(s)' claim when the food is an 'added sugar' (as defined) or contains an 'added sugar' as an ingredient
- a food which does not contain 'added sugar' is disqualified from making a 'no added sugar(s)' claim if it contains more *sugars* (i.e. monosaccharides and disaccharides) than:
 - 10.0 g /100 g for solid food
 - 7.5 g /100 mL for liquid food
- when the concentration of sugars in a food is increased from the hydrolysis of carbohydrates during food manufacture, a 'no added sugar(s)' claim is not permitted except when the sugars concentration in that food is $\leq 1.5\%$ (and the food otherwise meets claim conditions)

- 'added sugar' is defined for the purpose of 'no added sugar(s)' claim conditions to mean the following derived from any source:
 - hexose monosaccharides and disaccharides;
 - low energy hexose monosaccharide D-tagatose;
 - starch hydrolysate;
 - glucose syrup;
 - maltodextrin and similar products;
 - products derived at a sugar refinery, including brown sugar, molasses, raw sugar, golden syrup, treacle;
 - icing sugar;
 - invert sugar;
 - sugar and sugar syrups derived from plants;
 - honey;
 - malt;
 - malt extracts;
 - concentrated fruit juice;
 - deionised fruit juice;
 - concentrated vegetable juice; and
 - deionised vegetable juice
- concentrated fruit juice, concentrated vegetable juice, deionised fruit juice and deionised vegetable juice are not 'added sugar' when the food for sale is a:
 - brewed soft drink
 - formulated beverage
 - juice blend
 - fruit drink
 - fruit juice
 - vegetable juice
 - water-based beverage
- maintain the existing approach for 'no added sugar(s)' claim conditions in relation to the incidental presence of 'added sugar' in foods from carriers of nutrients, processing aids, flavourings or other food additives
- the current approach that, if fermented foods (including alcoholic beverages) have 'added sugar' as an ingoing ingredient, and residual 'added sugar' is present in the food after fermentation, the food cannot display a 'no added sugar(s)' claim.

As explained above, FSANZ expects to review the outcomes of P1062 in the context of P1058.

3.4 Risk communication

3.4.1 Consultation

Consultation is a key part of FSANZ's open and transparent standards development process. Targeted consultation with key stakeholders has informed assessment of this proposal (see section 2.7) and public submissions were called to assist consideration of the draft variation to the Code (see section 3.1.1).

Subscribers and interested parties were notified about the CFS via the FSANZ Notification Circular, media release, FSANZ's social media channels and Food Standards News. In addition, a webinar about the proposed approach at CFS was held on 21 September 2023 to assist stakeholders make submissions.

FSANZ acknowledges the time taken by individuals and organisations to make submissions on this proposal. All submissions and comments received are valued and contribute to the rigour of our assessment.

The draft variation was considered for approval by the FSANZ Board having regard to all submissions made during the call for submissions.

3.4.2 World Trade Organization (WTO)

Australia and New Zealand are members of the WTO and therefore are legally obliged to follow the rules of WTO trade related agreements. The TBT Agreement recognises countries' rights to adopt standards for the protection of human health at the level it considers appropriate provided that such measures are in accordance with that Agreement (WTO, 1995).

As members of the WTO, Australia and New Zealand are obliged to notify WTO members where proposed regulatory measures, including those applying to voluntary labelling such as nutrition claims, are inconsistent with any existing or imminent international standards and the proposed measure may have a significant effect on trade.

For this proposal, FSANZ made a notification to the WTO in accordance with the WTO TBT Agreement. Comments were received from two international industry beverage organisations. FSANZ has had regard to the comments received and a response is provided in Table 2 of Appendix 1 to this report.

3.5 FSANZ Act assessment requirements

3.5.1 Section 59

When assessing this proposal and in the subsequent development and approval of a food regulatory measure, FSANZ has had regard to the following matters in section 59 of the FSANZ Act.

3.5.1.1 Consideration of costs and benefits

The FSANZ Act requires FSANZ to have regard to whether costs that would arise from the proposed measure outweigh the direct or indirect benefits of the proposed measure²². The purpose of this consideration is to determine if the community, government, and industry as a whole is likely to benefit from a move from the status quo to the proposed option.

Impact analysis requirements applying to FSANZ were changed in April 2023²³. As a result, undertaking a Regulation Impact Statement (RIS) in addition to the assessment required under the FSANZ Act is no longer mandated. FSANZ has undertaken its assessment in accordance with the FSANZ Act to consider the regulatory impacts and costs and benefits in line with RIS guidance.

FSANZ's assessment of the costs and benefits can be found at Attachment H. Summarised below are the options considered and the overall conclusion reached.

²² Paragraph 59(2)(a) of the FSANZ Act

²³ For more information, refer to the Regulatory Impact Analysis Guide for Ministers' Meetings and National Standard Setting Bodies (June 2023)

Options considered

Option 1 - maintain the status quo

In any consideration of changes to regulation, the status quo must be a part of FSANZ's assessment.

This option would maintain the existing conditions for making voluntary 'no added sugar(s)' or 'unsweetened' nutrition content claims in the table in S4—3 of Schedule 4 of the Code.

Option 2 – amend the Code to define and clarify added sugars for the purposes of making 'no added sugar(s)' (and 'unsweetened') claims

This option would amend the existing conditions in the table in S4—3 of Schedule 4 of the Code to define added sugars and clarify the foods that are permitted to make voluntary 'no added sugar(s)' or 'unsweetened' (or synonyms of these descriptors) nutrition content claims.

Conclusion – benefits outweigh costs

Based on the assessment of cost and benefits, FSANZ has concluded the proposed changes to the Code (Option 2) will likely have the largest net benefit and result in a net benefit as part of a stand-alone and/or cumulative intervention and is therefore the preferred option.

Option 2 will benefit consumers by reducing the likelihood that they are potentially misled and enabling more informed choice in support of dietary guideline recommendations. This may lead to improvements in the health of the Australian and New Zealand populations by reducing the severity and/or occurrence of diet related illness. It will also support other interventions such as education.

3.5.1.2 Other measures

There are no other measures (whether available to FSANZ or not) that would be more cost-effective than a food regulatory measure developed or varied as a result of the proposal.

3.5.1.3 Any relevant New Zealand standards

The relevant standards apply in both Australia and New Zealand. There are no relevant New Zealand only standards.

3.5.1.4 Any other relevant matters

Other relevant matters are considered below.

3.5.2. Subsection 18(1)

FSANZ has also considered the three objectives in subsection 18(1) of the FSANZ Act during the assessment.

3.5.2.1 Protection of public health and safety

Based on available evidence, FSANZ's assessment indicates 'no added sugar(s)' claims can influence consumer food purchasing decisions. Defining and clarifying added sugars for the purposes of nutrition content claims about added sugar to align with dietary guideline recommendations contributes to broader public health efforts to reduce the risk of diet-related illness in the population.

3.5.2.2 The provision of adequate information relating to food to enable consumers to make informed choices

Defining and clarifying added sugars for the purposes of nutrition content claims about added sugar provides information, when these claims are voluntarily made, will assist consumers make informed choices in relation to added sugars in their diet.

3.5.2.3 The prevention of misleading or deceptive conduct

Based on available evidence that suggests the presence of 'no added sugar' claims can influence consumers' perceptions of healthfulness of a food, defining and clarifying added sugars for claim purposes to align with dietary guidelines will help reduce the potential for consumers to be misled when voluntary nutrition content claims about added sugars are made about food.

3.5.3 Subsection 18(2) considerations

FSANZ has also had regard to:

- **the need for standards to be based on risk analysis using the best available scientific evidence**

FSANZ's assessment used the best available scientific evidence (see section 3.2 and SD1).

- **the promotion of consistency between domestic and international food standards**

FSANZ has considered international and overseas regulations for 'no added sugar(s)' and similar claims and definitions for 'added sugars' for the purpose of making claims and various other purposes (see section 2.6 and Attachments D, E and F).

- **the desirability of an efficient and internationally competitive food industry**

Defining and clarifying added sugars for claim purposes provides certainty for industry to be efficient and competitive in making permitted nutrition content claims about added sugar in food.

- **the promotion of fair trading in food**

FSANZ has not identified any issues relevant to this matter.

- **any written policy guidelines formulated by the Food Ministers' Meeting**

The relevant ministerial policy guidelines, the *Policy Guideline on Nutrition, Health and Related Claims*, and the *Policy Guideline on Food Labelling to Support Consumers to Make Informed Healthy Choices* have been considered as part of the assessment (see sections 2.3 and 3.3.3.1).

4 Implementation

4.1 Transitional arrangements

FSANZ has decided on a four-year transition period for the changes to claim conditions for 'no added sugar(s)' and 'unsweetened' nutrition content claims (and synonyms). The approved variation is to commence on gazettal.

Additionally, food labelled before the end of the transition period with 'no added sugar(s)' and 'unsweetened' claims that comply with existing requirements may be sold for a period of two years (stock-in-trade period).

As the approved draft variation amends the conditions for making 'no added sugar(s)' claims and also 'unsweetened' nutrition content claims, in the absence of any transitional arrangements, any existing claims being made about a food will need to be removed if they no longer meet the claim conditions.

At CFS, FSANZ proposed a two-year transition period to allow producers, manufacturers and importers time to make any required labelling changes for products carrying 'no added sugar(s)' or 'unsweetened' claims to comply with the new claim conditions.

Those public health and consumer submitters commenting on the transition period supported this approach. Industry submitters, however were strongly opposed to the proposed two-year transition period and also the lack of any stock-in-trade period. The reasons industry submitters provided for requesting a longer transition period and the need for stock-in-trade period included:

- the complexity of making multiple label changes, particularly given recent label changes for allergen labelling and HSR and the possibility of others in the future from P1058 and for alcoholic beverages from P1049
- issues for long shelf life products in complying with the new requirements
- to minimise costs and reduce the environmental impacts such as disposal of packaging.

They also noted manufacturers need time to reformulate as product development, including shelf life testing, can take up to 12 months for longer-life products.

Both industry and government submitters suggested aligning the transition period with P1058 given these two proposals are closely related and are likely to have implications for one another. Industry also requested the relationship between P1062 and other proposed alcohol labelling changes (e.g. P1049, P1058 and P1059 – Energy labelling on alcoholic beverages) be considered and that any transition period be aligned with these proposals to minimise cost and administrative burden for industry.

As discussed in section 3.3.1.3, FSANZ recognises the importance of having regulatory coherence in the Code and that the work on added sugars labelling under P1062 and P1058 is linked. Given this, FSANZ expects changes to claim conditions arising from P1062 will need to be reviewed as part of its assessment for P1058 and in light of the consumer evidence available at that time.

As noted previously (see section 2.2.1) FSANZ is progressing consumer research work under P1058 and expects to complete this in 2024. Following this, FSANZ is forecasting completing work on P1058 by mid-2025. At this stage work on alcohol labelling under P1049 and P1059 is expected to be considered for approval in mid-2024.

Based on the predicted timing of these proposals, to allow sufficient time for completing P1058 (including reviewing changes under P1062 in the context of P1058 before they come into full effect), and aligning with other proposed labelling changes under consideration (i.e. P1058, P1049, P1059) to lessen the impacts on industry, FSANZ has decided to extend the transition period to four years and also provide a period of two years for stock-in-trade.

A transition period of four years would begin on the date of gazettal of the variation. During the transition period, 'no added sugar(s)' and 'unsweetened' claims made can comply with either the Code as in force as if the variation had not taken effect, or with the Code as amended by the variation. At the end of the transition period, food products making these claims would need to comply with the variation. The subsequent stock-in-trade period will allow food labelled before the end of the transition period to continue to be sold for up to two years after the end of the transition period.

4.2 Education

As recognised in the *Policy Guideline on Food Labelling to Support Consumers to Make Informed Healthy Choices*²⁴ there is a role for education and promotion of the dietary guidelines to raise consumers' awareness of and understanding about healthy dietary patterns.

FSANZ acknowledges food labelling has an important role to enable consumers to make informed choices when purchasing food products and can support consumers' dietary choices specific to their individual needs. FSANZ expects to focus on informing consumers, public health professionals and the food industry, particularly small business, of the revised conditions for voluntary 'no added sugar(s)' and 'unsweetened' claims primarily through targeted stakeholder engagement and via the FSANZ website and social media channels.

However, food labelling must be supported by broader public efforts by governments and public health bodies to promote the dietary guidelines and educate consumers on how to eat a healthy diet.

5 References

- FSANZ (2008) Nutrition, Health and Related Claims: A short guide to the new Standard. Food Standards Australia New Zealand, Canberra.
- MoH (2003) Food and Nutrition guidelines for Healthy Adults: A background paper. Ministry of Health, Wellington.
- MoH (2013) Food and Nutrition guidelines for Healthy Older People: A background paper. Ministry of Health, Wellington
- MoH (2015) Food and Nutrition Guidelines for Healthy Children and Young People (Aged 2–18 years): A background paper. Ministry of Health, Wellington.
- MoH (2020) Eating and Activity Guidelines for New Zealand Adults. Ministry of Health, Wellington.
- MoH (2021) Healthy Eating Guidelines for New Zealand Babies and Toddlers (0–2 years old). Ministry of Health, Wellington.
- NHMRC (2003) Dietary Guidelines for Australian Adults. Commonwealth of Australia, Canberra.
- NHMRC (2013) Australian Dietary Guidelines. Commonwealth of Australia, Canberra.
- WHO, 2023. Use of non-sugar sweeteners: WHO guideline. Geneva: World Health Organization. [Use of non-sugar sweeteners: WHO guideline](#)

²⁴ [Policy Guideline on Food Labelling to Support Consumers to make Informed Healthy Choices](#)

Appendix 1

Summary of submitter issues and FSANZ response to the CFS and WTO notification

Attachments

- A. Approved draft variation to the *Australia New Zealand Food Standards Code*
- B. Explanatory Statement
- C. Draft variation to the *Australia New Zealand Food Standards Code* (call for submissions)
- D. International 'no added sugar' and 'unsweetened' claim conditions
- E. International 'added' and 'free' sugar definitions
- F. Summary of existing domestic and international sugars recommendations and thresholds
- G. Number of products above and below each total sugars threshold by category
- H. Consideration of costs and benefits

Appendix 1 – Summary of submitter issues and FSANZ response to the CFS and WTO notification

Table 1 summarises issues raised by submitters to the CFS and FSANZ's response.

Links to submitter issue sub-groupings

1. [Approach and definition](#)
2. [Claim conditions based on addition of ingredients](#)
3. [Relationship to P1058](#)
4. [Infant foods and policy issues](#)
5. [Fruit and vegetable ingredients](#)
6. [Application to alcoholic beverages \(use of fruit products\)](#)
7. [Residual sugars after fermentation](#)
8. [Sugars produced from hydrolysis](#)
9. [Incidental presence of added sugars](#)
10. [Low energy sugars](#)
11. [Unsweetened claim conditions](#)
12. [Synonyms and other similar claims](#)
13. [Dietary Guidelines](#)
14. [Consultation process](#)
15. [International consistency](#)
16. [Implementation](#)

Table 2 summarises comments received from the World Trade Organization (WTO) notification and FSANZ's response.

[Table 2 – FSANZ's response to comment received from the WTO notification](#)

Table 1: Issues raised by submitters to the CFS and FSANZ’s response

Approach and definition

Issue	Raised by	FSANZ response
<p>Proposed 'added sugar(s)' definition is inadequate and will not allow consumers to make choices in line with dietary guidelines.</p> <p>Not incorporating food components listed in claim conditions (a)(ii)–(ix), severely limits the definition's usefulness and only perpetuates existing confusion and the misconception surrounding their health implications.</p>	<p>Academia Consumer Public Health</p>	<p>The scope of P1062 is limited to defining and clarifying added sugars for the purposes of making 'no added sugar(s)' claims. The claim requirements as a whole are intended to allow consumers to make informed choices in line with dietary guidelines not just the 'added sugar' definition.</p> <p>To address the potential risk of consumer confusion in regard to fruit products, FSANZ has changed the approach as proposed at CFS by applying disqualifying criteria based on the (total) sugar content of a food. See section 3.3.3.1</p>
<p>Do not support the definition’s limited scope for the purpose of making claims. Recommend broader utility given the interrelated proposal P1058 to quantify added sugars in the NIP. Prefer a single, comprehensive definition for 'added sugars' labelling to simplify implementation and support consumer understanding. To align with New Zealand’s dietary guidelines, the definition must capture naturally occurring sugars e.g. fruit juice, when added to foods and when a food for sale because:</p> <ul style="list-style-type: none"> • The fruit has undergone processing to increase the concentration of naturally occurring sugars which contribute sugar and energy to the diet, and these products are used as a substitute for sugar. • FSANZ’s consumer evidence shows consumers generally had more positive attitudes towards sugars perceived as 	<p>Government</p>	<p>The scope of P1062 is limited to defining and clarifying added sugars for the purposes of making 'no added sugar(s)' claims. Consideration of broader utility for the definition of 'added sugar' is not within scope. However, in recognition of the link between P1062 and P1058, FSANZ expects to review the changes made by P1062 in its assessment and decisions relating to P1058 to ensure regulatory coherence. See section 3.3.1.3.</p> <p>In regard to fruit products, FSANZ has changed the approach as proposed at CFS by applying disqualifying criteria based on the (total) sugar content of a food. See section 3.3.3.1</p>

Issue	Raised by	FSANZ response
<p>'natural' and may not view these as added sugar.</p> <ul style="list-style-type: none"> Non-alcoholic beverages, including fruit juice and fruit drinks are major contributors of added sugars in New Zealanders' diets. <p>Do not support a separate claim condition for fruit products and recommend incorporating the fruit products listed in Schedule 4 [1] (a)(ii)–(ix) of the draft variation into the definition of 'added sugars' (Schedule 4 [1] (c) of the draft variation).</p>		
<p>Recommend defining 'added sugars' as those produced by processing methods where the food matrix is altered including sugars from hydrolysis, fermentation, and the processing of fruit and vegetables or dried fruit and vegetables.</p>	Public health	<p>FSANZ has retained the approach based on the addition of 'added sugar' but has clarified conditions for vegetable products (see section 3.3.2), by applying disqualifying criteria based on the (total) sugar content of a food (see section 3.3.3.1), in respect of residual sugars after fermentation (see section 3.3.2.3) and sugars from hydrolysis (see section 3.3.3.2).</p>
<p>Encourages FSANZ to consider alternative labelling approaches which include setting criteria for high sugar content and whether such products should be permitted to make claims. Suggests FSANZ consider additional claim conditions for products high in sugar, requiring criteria for 'high'.</p>	Government	<p>FSANZ has changed the approach as proposed at CFS by applying disqualifying criteria based on the (total) sugar content of a food. See section 3.3.3.1.</p>
<p>Claim conditions should be based on total sugar in the final product (including natural sugar in fruit products).</p>	Industry	<p>FSANZ has changed the approach as proposed at CFS by applying disqualifying criteria based on the (total) sugar content of a food. See section 3.3.3.1.</p>
<p>Notes advice from NZ Commerce Commission that claims can be literally true but still misleading based on the overall impression – e.g. when literally no sugar is added (so the claim is factually correct) could create an overall misleading impression when the food is high in sugars. Notes the FSANZ consumer evidence</p>	Government	<p>To address the potential risk of consumers being misled, FSANZ has changed the approach as proposed at CFS by applying disqualifying criteria based on the (total) sugar content of a food. See section 3.3.3.1.</p>

Issue	Raised by	FSANZ response
indicates this could well be the case – especially in minority groups		
The Australian Food Composition Database currently uses ‘sugars*’ in the Code and the WHO definition of free sugars to determine added sugars content. This does not align with the approach proposed in P1062.	Government	<p>FSANZ incorporated added and free sugars into the Australian Food Composition Database (AFCD) in 2019, with the introduction of a core set of 54 nutrients to align with those reported in AUSNUT 2011–13. The definitions used for added and free sugars are based on those developed for use in the 2011–13 Australian Health Survey, for which AUSNUT 2011–13 was developed.</p> <p>The definition of added sugar in the variation to the Code is for the purpose of regulating ‘no added sugar(s)’ claims. FSANZ intends to update the published added sugars values in future releases of AFCD and will consider the suitability of this or other definitions for the AFCD at that time.</p>
<p>Proposed definition lacks clarity —‘...and similar products’ introduces ambiguity. List all products specifically and include more examples:</p> <ul style="list-style-type: none"> - hexose mono- and disaccharides: dextrose, fructose, sucrose, lactose, glucose, galactose, maltose, trehalose, D-tagatose - products derived at a sugar refinery: cane sugar, beet sugar, white sugar, granulated sugar, and fruit sugar - sugar and sugar syrup derived from plants (including grains): high fructose corn syrup, tapioca syrup, maple syrup, rice syrup, rice malt syrup, coconut sugar, concentrates of vegetables (e.g. concentrated sweet corn, pea concentrate or any other vegetable), various fruit and vegetable powders, purees, strained pulps or any concentrate. - referring to ‘glucose syrups, maltodextrin and <i>similar products</i>’ lacks clarity. Consider adding 	Public Health Academia Government Retailer Industry	<p>The definition of ‘added sugar’ has been amended to provide greater clarity. See section 3.3.2.</p> <p>FSANZ has retained the use of the term <i>including</i> in the approved draft variation. This use is consistent with accepted legislative drafting practice and the interpretation of that terms by the courts. The plain meaning of the word “including” itself makes clear that what follows that term in the approved draft variation is not an exhaustive list. FSANZ does not consider it practicable or necessary for the approved draft variation to set out in full a comprehensive list of each and every product that may fall within a particular category of ‘added sugar’. Nor is FSANZ aware of an evidence that would warrant such a measure, noting the terms currently used in existing Code provisions. However, in order to assist users and interpretation, examples have been included in the Explanatory Statement (see Attachment B). As noted below, guidance will also be developed.</p> <p><i>Derived from any source</i> has been retained to reflect that the listed ingredients/substances as ‘added sugar’ can be obtained from more than one source e.g. glucose syrup can be derived from wheat or corn.</p> <p>Consistency with <i>sugars</i> in the Code based on mono- and disaccharides has been maintained. FSANZ has not received an application to permit use of a pentose saccharide e.g. D-ribose which is considered to be a novel food and has not yet had a premarket assessment (i.e. no application has been received). Should FSANZ receive such an application, labelling requirements including for claims would be considered on a case-by-case basis.</p>

Issue	Raised by	FSANZ response
<p>'including dextrans, oligosaccharides and cyclodextrins'.</p> <ul style="list-style-type: none"> - Drafting should state 'including <i>but not limited to</i>'. - clarify 'derived from any source'. - 'icing sugar' and 'honey' are clear but 'hexose monosaccharides and disaccharides' could be interpreted as any carbohydrate-based ingredient. - include pentose saccharides as consumers do not distinguish between pentose and hexose saccharides. Fructose is found naturally in both hexose and pentose forms. 		
<p>Tapioca and sorghum can be used as sweeteners as can nectars from plants such as agave, birch, some types of palm trees.</p>	Academia	<p>The 'added sugar' definition includes sugar and sugar syrup derived from plants. See section 3.3.2.</p> <p>As explained above examples have been included in the Explanatory Statement (see Attachment B).</p>
<p>Malt, malt extracts, and maltodextrin contain mono- and disaccharides as well as other components. Only the mono- and disaccharide components should be counted as added sugar. Maltodextrin is often used as a carrier for vitamins and minerals.</p>	Industry Retailer	<p>The scope of P1062 is limited to defining and clarifying added sugars for the purposes of making 'no added sugar(s)' claims not for the declaration of mono- and disaccharide content.</p> <p>The existing approach to incidental presence of 'added sugar' (as defined) in foods from carriers of nutrients, processing aids, flavourings or other food additives has been maintained and will be considered under Proposal P1058. See section 3.3.2.4.</p>
<p>Not clear if naturally-occurring sugars in dairy products are considered added sugar. Lactose should be excluded as used to standardise dairy products and supports dietary guidelines recommendations about consuming dairy products</p>	Industry	<p>The intent of including hexose mono- and disaccharides in the definition as demonstrated by the examples given in the Explanatory Statement (e.g. dextrose, fructose, sucrose etc.) is to ensure that food containing these mono- and disaccharides when added as an ingredient are not permitted to make a claim. For example, the addition of lactose would prevent a product from making a 'no added sugar(s)' claim but the addition of an ingredient which is not listed in the definition that contains naturally-occurring lactose e.g. whey powder, would not prevent a claim.</p> <p>FSANZ notes the existing 'no added sugar(s)' claims conditions in Schedule 4 do not permit claims to be made when sugars* (includes lactose) are added. As the variation to</p>

Issue	Raised by	FSANZ response
		Schedule 4 from P1062 will not change this situation, FSANZ would expect the status quo will continue for dairy products which meet compositional requirements in Part 2.5 of the Code noting the responsibility for interpretation of the Code as applied by Australian and New Zealand food laws rests with food enforcement authorities.
Section 2.6.1–3 allows a food sold as fruit juice to contain sugars*. Proposed condition (e) can read that fruit juice that contains sugars* can claim as it is still a food for sale that is 'fruit juice'. Suggests adding to condition (e)(iii) that the food for sale does not contain any added sugars as an added ingredient.	Government	FSANZ has changed the approach as proposed at CFS by applying disqualifying criteria based on the (total) sugar content of a food. As discussed in section 3.3.3.1, most fruit juice products will not be able to make a claim based on the 7.5 g/100 mL threshold for liquids.

Claim conditions based on addition of ingredients

Issue	Raised by	FSANZ response
Support claim conditions based on the addition of ingredients to foods but have issues with consumer understanding of 'no added sugar(s)' claims on fruit products when sold as a food. Consistent with the consumer evidence that indicates 'no added sugar' claims increase perceived healthfulness of food products, single ingredient foods, should not be eligible to make claims.	Government	To address the potential risk of consumer confusion based on the consumer evidence, FSANZ has changed the approach proposed at CFS for 'added sugar' sold as the food (e.g. honey) (see section 3.3.2), and for fruit products by applying disqualifying criteria based on the (total) sugar content of a food (see section 3.3.3.1).
The approach conflicts with draft claim condition (g), which explicitly restricts claims on foods with sugars resulting from processing rather than solely from ingredient addition.	Academia Public health	FSANZ has amended and clarified the approach as proposed at CFS so that it is not based only on the addition of ingredients. See section 3.3.2.
Approach 'based on the addition of ingredients to foods' may not be easily understood e.g. hexose mono- and disaccharides produced during hydrolysis. In this case hexose mono- and	Government	See above response.

Issue	Raised by	FSANZ response
disaccharides produced do not appear in the statement of ingredients.		
Does not support as each sugar should be assessed by post-prandial impact on four key components: Blood Sugar, Insulin, Satiety & Gut Biome and consumers should be provided with an "Impact Analysis/Assessment" relative to the use of these ingredients. Supports D-allulose as being suitable.	Industry	<p>The scope of P1062 is limited to defining and clarifying added sugars for the purposes of making 'no added sugar(s)' claims to ensure these claims align with dietary guidelines. The dietary guidelines recommend to limit sugar intake due to increased risk of excess weight gain and dental caries.</p> <p>As noted in section 2.2.3, D-allulose is currently being pre-market assessed for use in Australia and New Zealand including labelling requirements.</p>
'Added as ingredient' makes little sense and is not practical as most foods are made of variety of components. To specify foods sold as such can make claim but smoothie, juice/puree blend, fruit drink, water with juice for flavouring, or mixed pureed baby food cannot is increasing consumer confusion.	Industry	FSANZ has changed the approach as proposed at CFS so that it is not based only on the addition of ingredients. See section 3.3.2.
Need to clarify how applies to foods that can be standardised by adding sugar e.g. fruit juice and cows' milk.	Government	As noted above, the existing 'no added sugar(s) claims conditions in Schedule 4 do not permit claims to be made when sugars* (includes lactose) are added. As the variation to Schedule 4 under P1062 will not change this situation, FSANZ would expect the status quo will continue for dairy products and fruit juice as per Part 2.5 and Standard 2.6.1 of the Code respectively, noting the responsibility for interpretation of the Code as applied by Australian and New Zealand food laws rests with food enforcement authorities.
<p>Seeks clarity on claim conditions for:</p> <ul style="list-style-type: none"> - Jam (including conserve) made from fruit and fruit juice without addition of sugars* or honey. - When no other ingredients than fruit-based (e.g. apple juice, grape must) with permitted food additives and processing aids added, are these considered to have a fruit product added and are ineligible for claim? 	Government	<p>FSANZ has changed the approach as proposed at CFS so that it is not based only on the addition of ingredients. See section 3.3.2.</p> <p>In relation to fruit products, the changed approach also includes applying disqualifying criteria based on the (total) sugar content of a food. See section 3.3.3.1.</p>

Relationship to P1058

Issue	Raised by	FSANZ response
<p>Concerned the definition of 'added sugars' will have wider impact than claims, since it will in effect determine the meaning of 'added sugars' for future regulatory proposals related to labelling added sugars in the NIP.</p> <p>The definition needs to align with reasonable consumer understanding of what 'added' means – that being an ingredient (sugar or other) that is added to a food product, not one that is naturally occurring.</p> <p>Consider that to avoid consumer confusion and maintain trust, ensure products carrying claims for 'no added sugars' can declare zero in the NIP.</p> <p>Work on this Proposal should be done in conjunction with Proposal P1058 – Nutrition labelling about added sugars.</p>	<p>Industry Alcohol beverage industry</p>	<p>The scope of P1062 is limited to defining and clarifying added sugars for the purposes of making 'no added sugar(s)' claims. Consideration of broader utility for the definition of 'added sugar' is not within scope.</p> <p>However, in recognition of the link between P1062 and P1058, FSANZ expects to review the changes made by P1062 in its assessment and decisions relating to P1058 to ensure regulatory coherence. See section 3.3.1.3.</p> <p>Based on consumer evidence that added sugars are commonly understood by consumers to be about sugar that is added during manufacturing or food preparation, rather than being inherent or naturally occurring in the food, FSANZ has maintained not permitting claims when 'added sugar' as defined is added to food. However, as consumer evidence also shows that 'no added sugar(s)' claims can increase how healthy consumers perceive food products to be and can influence purchasing decisions, FSANZ has applied disqualifying criteria based on the (total) sugar content to reduce the risk of consumers being misled about naturally occurring sugar in fruit products. See section 3.3.3.1.</p>
<p>Schedule 4 states, 'food contains no added sugars, honey, malt, or malt extracts'. This separates sugars which are sugars from ingredients that contain sugar. These ingredients are being treated in the same way as sugar which could have consequences for P1058 e.g. declaration in the NIP. Ingredients containing sugar might preclude a no added sugar claim but should not have to be declared in the NIP as added sugar.</p>	<p>Industry</p>	<p>The scope of P1062 is limited to defining and clarifying added sugars for the purposes of making 'no added sugar(s)' claims.</p> <p>However, in recognition of the link between P1062 and P1058, FSANZ expects to review the changes made by P1062 in its assessment and decisions relating to P1058 to ensure regulatory coherence. See section 3.3.1.3.</p>
<p>Added sugar labelling alone is unlikely to change purchasing behaviour significantly.</p>	<p>Public health</p>	<p>The scope of P1062 is limited to defining and clarifying added sugars for the purposes of making voluntary 'no added sugar(s)' claims not mandatory declaration of added</p>

Issue	Raised by	FSANZ response
<p>However, research indicates that consumers are supportive of implementing such labelling.</p>		<p>sugars for nutrition labelling purposes. This is to be considered under Proposal P1058 which is being informed by consumer research currently being undertaken.</p>
<p>The label changes will affect virtually every food manufacturer in Australia—not just those with no added sugar/s claims. If implemented these laws should apply to all food manufacturers without exception, especially imported foods.</p>	<p>Industry</p>	<p>The scope of P1062 is limited to defining and clarifying added sugars for the purposes of making voluntary ‘no added sugar(s)’ claims not mandatory labelling of added sugars. This is being considered under Proposal P1058.</p> <p>Both food produced in Australia and New Zealand and imported food is required to comply with the Food Standards Code.</p>
<p>Given P1062 is part of further work to incorporate added sugars information into the NIP (P1058), suggest the ‘added sugars’ definition should lie dormant in the Code until such time as P1058 is finalised. This allows time to discuss use and impacts of the added sugar definition to make voluntary claims.</p> <p>Concerned P1062 will inform what will be listed in the NIP in P1058. Do not think ‘added sugars’ is the best descriptor of what should be listed in the NIP when referring to the types of sugars that should be limited according to the dietary guidelines.</p> <p>The definition of added sugar should include processed fruit products. If processed fruit products preclude a no added sugar claim, they should be included as added sugar in the NIP.</p> <p>Considers the proposed definition should be fit for purpose for all instances so that added sugars are defined consistently throughout the Code, preventing any confusion.</p>	<p>Government</p>	<p>The scope of P1062 is limited to defining and clarifying added sugars for the purposes of making ‘no added sugar(s)’ claims. Consideration of broader utility for the definition of ‘added sugar’ is not within scope.</p> <p>However, in recognition of the link between P1062 and P1058, FSANZ expects to review the changes made by P1062 in its assessment and decisions relating to P1058 to ensure regulatory coherence. See section 3.3.1.3.</p>

Infant foods and policy issues

Issue	Raised by	FSANZ response
<p>Recommend prohibiting 'no added sugar' and 'unsweetened' claims as are misinterpreted by consumers and misleading, particularly for Māori, Pacific, Asian and low-income groups. The perceived healthfulness of foods with 'no added sugar' claims encourage consumption of food products containing high levels of natural sugars.</p>	<p>Government Public health</p>	<p>The scope of P1062 is limited to defining and clarifying added sugars for the purposes of making 'no added sugar(s)' claims. As noted in section 1.4 whether such claims should be permitted per se is out of scope.</p> <p>To address the potential risk of consumers being confused or misled in regard to naturally occurring sugars, FSANZ has changed the approach as proposed at CFS by applying disqualifying criteria based on the (total) sugar content of a food. See section 3.3.3.1.</p>
<p>Defining 'added sugars' as the types of sugars that are recommended to be limited has broader implications beyond claims. The definition may affect activities currently underway under one of the Food Regulation priority areas such as the project on composition of infant and toddler foods. Comprehensive health policy discussion is required prior to progression to the next stage of the added sugar work.</p>	<p>Government</p>	<p>Noted. However, the scope of P1062 is limited to defining and clarifying added sugars for the purposes of making 'no added sugar(s)' claims. Consideration of broader utility for the definition of 'added sugar' is not within scope.</p> <p>Policy makers are best placed to consider how FSANZ's work on added sugars may affect broader policy discussions and activities.</p>
<p>Exception could be made for 100% pureed infant foods manufactured to meet Standard 2.9.2, especially for infants under 8 months, noting recommended first foods are pureed. Permission should apply to purees made from fruit/vegetables and/or meat for consistency and to not disadvantage vegetables. However, more work needed to understand prevalence of claims and implications of proposal on infant foods NZFS currently undertaking research and this could inform a decision on the relevance of "no added sugar(s)" claims regarding foods for infants.</p>	<p>Government</p>	<p>Food Ministers asked FSANZ to stage the work on added sugars as a priority by defining and clarifying added sugars for the purposes of making 'no added sugar(s)' claims to ensure alignment with dietary guidelines.</p> <p>FSANZ has changed the approach as proposed at CFS by applying disqualifying criteria based on the (total) sugar content of a food including infant and toddler food. See section 3.3.3.1.</p> <p>FSANZ acknowledges the ongoing work in this area and expects to review changes made as part of this proposal with its assessment and decisions relating to P1058 to ensure regulatory coherence. See section 3.3.1.3.</p>

Fruit and vegetable ingredients

Issue	Raised by	FSANZ response
<p>Proposed approach would allow 100% processed fruit products high in sugar to make claim (e.g. 100% tropical fruit salad bars, fruit bars, fruit straps, baked fruit pieces) is misleading and would not support choices consistent with dietary guidelines.</p>	<p>Public health</p>	<p>To support consumers to make informed choices and address the potential risk of consumers being confused or misled in regard to naturally occurring sugars, FSANZ has changed the approach as proposed at CFS by applying disqualifying criteria based on the (total) sugar content of a food. See section 3.3.3.1.</p>
<p>Single-ingredient foods when incorporated into other foods making the product ineligible for a 'no added sugar' claim (e.g., fruit juice, puree, honey) should also not be able to make the claim as food for sale. Reasons included:</p> <ul style="list-style-type: none"> - Are high in sugar. - Undermines dietary guidelines messaging to reduce sugar content. - NZ dietary guidelines classify fruit juice as sugary drink and a major source of added sugars. - Consumer evidence indicates claim increases healthiness perceptions of a food/food has no or reduced sugar/influence purchasing decisions. - May mislead and confuse consumers; particularly low income, less educated. - Allowing claims on fruit puree for infants is misleading given high sugar content and inconsistent with dietary guidelines given excessive size (average serve size 120 g vs recommended 20 g serve size for infants). Research shows claim is influential on baby and toddler foods - Fruit juice sold in serves larger than dietary guideline recommendations. (e.g. fruit juice 500–600 mL serves) 	<p>Government Public Health Academia Consumer</p>	<p>To address the potential risk of consumer being confused or misled, FSANZ has changed the approach as proposed at CFS in regard to 'added sugar' sold as the food (e.g. honey) (see section 3.3.2) and for fruit products by applying disqualifying criteria based on the (total) sugar content of a food. See section 3.3.3.1.</p>

Issue	Raised by	FSANZ response
<ul style="list-style-type: none"> - 100% juice can make claim while diluted juice or flavoured waters cannot despite lower sugar content. - Inconsistent claim when used as ingredient vs sold as food. - Not in line with Policy Guidance on Food Labelling to Support Consumers to Make Informed Choice. - Does not contain fibre of whole fruit, contributes excess energy and sugars and increases risk of dental decay in children. - HSR recognises high sugar content of fruit juices and need to guide consumers to healthier choices. 		
<p>Do not support prohibition of claims for listed fruit products. Reasons included:</p> <ul style="list-style-type: none"> - Fruit juice and dried fruit whole/core food in dietary guidelines as contribute beneficial nutrients. - Would cause consumer confusion as consumers will not be able to distinguish between products with fruit ingredients and products with fruit ingredients plus other added sugars. Contradicts dietary guidelines. - FSANZ stated fruit juice and dried fruit not identified as 'added sugars', however, included as added sugar due to perceived health halo effect. - FSANZ Consumer Evidence indicates it is against consumer perception to define fruit, in any form, as an 'added sugar' where it is present as the sole ingredient of a product, not added as a sweetener. 	Industry	<p>Based on consumer evidence that added sugars are commonly understood by consumers to be about sugar that is added during manufacturing or food preparation, rather than being inherent or naturally occurring in the food, FSANZ has maintained not permitting claims when 'added sugar' as defined is added to food.</p> <p>However as consumer evidence also shows that 'no added sugar(s) claims can increase how healthy consumers perceive food products to be and can influence purchasing decisions, FSANZ has applied disqualifying criteria based on the (total) sugar content to support consumers make informed choices and reduce the risk of consumers being misled in regard to naturally occurring sugar in fruit products. See section 3.3.3.1.</p> <p>Although some foods with naturally occurring sugars above the thresholds will not be permitted to make the claim, they are not required to be identified as 'added sugars' on the label. The declaration of added sugars in the NIP will be considered under P1058. Consumers will still be able to identify the ingredients of the food from the list of ingredients, and other claims about the food will still be permitted (e.g. contains 100% fruit).</p> <p>The approach will allow the addition of fruit products to food for technical functions other than sweetening and will permit claims to be made where the total sugar content is below the thresholds.</p>

Issue	Raised by	FSANZ response
<ul style="list-style-type: none"> - Should not capture naturally occurring sugars in fruit products. - It is neither consistent or clear for consumers to understand that when consuming a piece of whole fruit there are no added sugars, but when consuming same fruit which has been dried, juiced, pureed, with no additional ingredients, it contains added sugars. - Amount of juice used in many dairy foods would be well below dietary guideline recommendation. - Australians and New Zealanders not meeting recommended serves of fruit so to define as 'added sugars' increases the likelihood that consumption will not increase. - Fruit ingredients are used for other technical functions (flavour, colour, texture, to support characterising ingredients). - The Health Star Rating system awards points for fruit content so industry has been encouraged to increase fruit content. - Permitting claims would continue to drive innovation and product development. 		<p>As noted above, in recognition of the link between P1062 and P1058, FSANZ expects to review the changes made by P1062 in its assessment and decisions relating to P1058 to ensure regulatory coherence. See section 3.3.1.3.</p>
<p>Fruit and vegetable products prepared from entire, or most of, edible portion should be excluded. Reasons included:</p> <ul style="list-style-type: none"> - Manufacturing only changed structure or removed water, still contains all components of whole fruit. - Removal of water from puree or grinding dried fruit (e.g. freeze dried) does not affect composition and distinctions 	<p>Industry</p>	<p>In relation to fruit and vegetable products, FSANZ has changed the approach as proposed at CFS by applying disqualifying criteria based on the (total) sugar content of a food. See section 3.3.3.1</p>

Issue	Raised by	FSANZ response
<p>between fruit, dried fruit and puree/dried fruit powders should not be made.</p> <ul style="list-style-type: none"> - Methods of preparation (e.g. chopping, drying, pulping) should not determine whether ingredient is added sugar. - Only fruit processed so doesn't contain significant components of edible portion typically consumed (e.g. pulp removed) should be captured. 		
<p>Processing is important to enable consumption in certain instances (e.g. fruit puree for infants, hospitals and aged care). Prohibiting mixed food containing a puree contradicts dietary guidelines (i.e. pureed and mashed vegetables and fruit etc are important in diet of infants and choices should be varied). Questions why puree mixed with other ingredients to create variety in range is penalised; is illogical and confusing to consumers.</p>	Industry	<p>In relation to fruit and vegetable products, FSANZ has changed the approach as proposed at CFS by applying disqualifying criteria based on the (total) sugar content of a food. See section 3.3.3.1.</p>
<p>Processed fruit products such as purées count towards FVNL points in the NSPC. It is possible that a food which is not eligible for a 'no added sugar' claim could make a health claim or have a HSR of 3.5+, which could confuse consumers.</p>	Government	<p>To support consumers to make informed choices and address the potential risk of consumers being confused or misled in regard to naturally occurring sugars, FSANZ has changed the approach as proposed at CFS by applying disqualifying criteria based on the (total) sugar content of a food. See section 3.3.3.1.</p> <p>FSANZ notes the only permitted health claims for sugar(s) relate to dental health and chewing gum.</p>
<p>FSANZ should align with HSR which considers fruit puree positively as FVNL.</p>	Industry	<p>See above response.</p>
<p>Fruit juice (blended, reconstituted, full strength and diluted) should not be able to make a no added sugar claim when sold as such. Frozen and canned fruit products in juice should also not be able to make a claim.</p>	Academia Public health Consumer Government	<p>In relation to fruit products, FSANZ has changed the approach as proposed at CFS by applying disqualifying criteria based on the (total) sugar content of a food. See section 3.3.3.1.</p>

Issue	Raised by	FSANZ response
<p>Only concentrated fruit products which are not reconstituted to restore them to single-strength concentration should be considered added sugar. Any single-strength fruit products (concentrated puree, paste, powder or juice) should be able to carry a no added sugar claim.</p> <ul style="list-style-type: none"> - Recommend amending proposed wording “concentrated fruit juice, unless the food for sale is fruit juice” to “concentrated fruit product, unless reconstituted”. - Sugar content similar to fresh fruit (e.g. passionfruit pulp, canned versus raw – both 5.7 g sugar) and provides flavour and texture along with nutrients. - More important that final sugar content is equivalent to single strength of the total fruit content or the total fresh fruit equivalent. - USA approach does not capture single-strength/reconstituted as added sugar. - If single-strength fruit added for flavour instead of sweetening, and product total sugars are less than a certain level and comparable to vegetables, can products still make claim? Such a product could be healthy and not driving obesity, but has no claim benefit. - Fruit puree is single strength unless ‘concentrated’ is listed in its name. Fruit puree is obtained by suitable processed (e.g. sieving, grinding, milling) edible part of whole or peeled fruit without removing the juice. Puree represents step along continuum of whole to chopped/sliced to mash and 	<p>Industry</p>	<p>FSANZ has retained the approach based on the addition of ‘added sugar’ but has clarified conditions in regard to concentrated fruit and vegetable juice including exemptions for addition to certain beverages (see section 3.3.2).</p> <p>In relation to fruit products, FSANZ has changed the approach as proposed at CFS by removing the list of fruit products and instead applying disqualifying criteria based on the (total) sugar content of a food. See section 3.3.3.1</p>

Issue	Raised by	FSANZ response
<p>whole/chopped is not considered 'added sugar'.</p> <ul style="list-style-type: none"> - Single strength fruit puree is a key ingredient for the innovation of healthier products. Restriction will unintentionally lead to unhealthier products where manufacturers reduce fruit and lower the sugar content and replace them with ingredients of lower nutritional density. - Powders are dehydrated fruit and vegetables and should be treated in same manner as dried fruit. 		
<p>Does not support restriction on claims for juice category for addition of purees, powders, pastes etc.</p> <ul style="list-style-type: none"> - Puree, concentrated puree, pastes and powders are 'juice' if reconstituted back to single strength as 'liquid portion' of Section 2.6.1–2(a) can be interpreted as juice or puree and section 2.6.1–2(b) includes 'concentrating juice' which can be interpreted as powders, pastes and concentrated purees. If concentrated juice added to a food can make claim, how is a single-strength juice defined to differentiate it from a concentrated juice? - Prohibiting an intrinsic fruit sugar added to a drink without addition of actual sugar confuses the consumer (e.g. fruit juice and a puree). - Some fruits cannot be juiced (e.g. mango, bananas have to be pureed). Codex General Standard for Fruit Juice and Nectars allows puree and concentrated puree to be made into fruit juice. 	<p>Industry</p>	<p>FSANZ has retained the approach based on the addition of 'added sugar' (as defined) but has clarified conditions in regard to concentrated fruit and vegetable juice including exemptions for addition to certain beverages (see section 3.3.2).</p> <p>In relation to fruit products, FSANZ has changed the approach as proposed at CFS by removing the list of fruit products and instead applying disqualifying criteria based on the (total) sugar content of a food. See section 3.3.3.1.</p> <p>FSANZ notes the requirements in Standard 2.6.1 – Fruit juice and vegetable juice are not in scope of P1062, so FSANZ would expect the status quo will continue noting the responsibility for interpretation of the Code rests with food enforcement authorities.</p>

Issue	Raised by	FSANZ response
<ul style="list-style-type: none"> - Fruit pulp, according to the Codex Standard, is edible part of whole fruit (less peel, skin, seeds etc if appropriate) which may have been sliced or crushed but not reduced to a puree. Fruit pulp would be used for consumer preference (e.g. remove gritty part from raspberry). Fruit pulp is single-strength and not added sugar. - USFDA also includes puree in definition of fruit juice. - Puree and pulp in fruit juice should be permitted. 		
Specify that frozen single-strength juice products can carry a no added sugar claim.	Industry	In relation to fruit products, FSANZ has changed the approach as proposed at CFS by removing the list of fruit products and instead applying disqualifying criteria based on the (total) sugar content of a food. See section 3.3.3.1.
Can vegetable purees be added to a juice and make claim if final food meets Std 2.6.1?	Industry	<p>FSANZ has retained the approach based on the addition of 'added sugar' (as defined) but has clarified conditions in regard to concentrated fruit and vegetable juice including exemptions for addition to certain beverages (see section 3.3.2).</p> <p>In relation to fruit products, FSANZ has changed the approach as proposed at CFS by removing the list of fruit products and instead applying disqualifying criteria based on the (total) sugar content of a food. See section 3.3.3.1.</p>
<p>Fruit drink diluted with water with no sugar added treated the same as sugar-sweetened drink. Need distinction between fruit drinks that contain no sugar and fruit drinks that do for consumers to make informed decision. Diluted fruit juice is healthier option (lower sugar content) compared to fruit juice and sugar-sweetened drink. Difference between juice and diluted juice confusing and unhelpful for consumers.</p> <p>Concentrated fruit juice diluted with water (Std 2.6.1) can make claim, but non-</p>	Industry	In relation to fruit products, FSANZ has changed the approach as proposed at CFS by removing the list of fruit products and instead applying disqualifying criteria based on the (total) sugar content of a food. This approach will allow most fruit drinks, vegetable juices and other non-alcoholic beverages (that do not contain 'added sugar') to make a 'no added sugar(s)' claim. See section 3.3.3.1.

Issue	Raised by	FSANZ response
<p>concentrated or single-strength fruit juice diluted with water cannot.</p> <p>NZ dietary guidelines for children and young people recommend no more than one diluted glass per day (max 250 mL) example of fruit drink supporting healthy choices.</p> <p>Little incentive for industry to invest and innovate in fruit drink products that are more aligned with dietary guidelines.</p>		
<p>Cranberry fruit drink (ingredients include reconstituted cranberry juice, sucralose, vegetable and fruit concentrate) not able to make claim with only 1.1 g/100 mL sugar compared to 100% juice. Discourages consumers to choose lower-sugar option and will increase confusion. Would be able to make notified health claim (related to urinary tract infections) but no longer 'no added sugar' claim despite health benefits.</p>	Industry	<p>In relation to fruit products, FSANZ has changed the approach as proposed at CFS by removing the list of fruit products and instead applying disqualifying criteria based on the (total) sugar content of a food. This approach will allow most fruit drinks, vegetable juices and other non-alcoholic beverages (that do not contain 'added sugar') to make a 'no added sugar(s)' claim. See section 3.3.3.1.</p>
<p>Code has provision for labelling reconstituted ingredients (section 1.2.4–5(2)) which does not mention need for reconstitution to be back to single strength to be labelled as reconstituted.</p>	Industry	<p>FSANZ has changed the approach as proposed at CFS by applying disqualifying criteria based on the (total) sugar content of a food. This does not change the requirements for ingredient labelling. See section 3.3.3.1</p>
<p>Will be complex to interpret and enforce. Clear guidance required particularly for baby/infant food or mixes of fruit/vegetable purees.</p>	Retailer	<p>FSANZ has changed the approach as proposed at CFS by removing the list of fruit products and instead applying disqualifying criteria based on the (total) sugar content of a food which will make implementation and enforcement simpler. See section 3.3.3.1.</p>
<p>Implementation may not be easy to understand the conditions and determine if individual products are eligible for claim:</p> <ul style="list-style-type: none"> - Some fruits only allow industry to produce a blend, e.g. mango and apricot can only be pureed, mango and orange juice can only be mango puree 	Government	<p>As noted above, FSANZ has changed the approach as proposed at CFS by removing the list of fruit products and instead applying disqualifying criteria based on the (total) sugar content of a food which will make implementation and enforcement simpler. See section 3.3.3.1.</p>

Issue	Raised by	FSANZ response
<p>and orange juice. Unlike other juice blends, mango and orange juice blend would be prohibited from making claim.</p> <ul style="list-style-type: none"> - Requests clarity if mango and orange juice blend is made from fresh pureed mangoes and (ready-made) orange juice. Can the juice blend make claim? - Section 2.6.1–2, allows fruit juice with pulp naturally occurring from squashing the fruit can make claim. However, if fruit pulp is added to fruit juice the food cannot make the claim. The final products in the two scenarios may look similar. - Different conditions may apply to the same product depending on how it is use, e.g., grape juice made of concentrated grape juice and water can make claim, grape jelly made from concentrated grape juice, water and gelatine cannot make claim. This may confuse manufacturers producing variety of fruit products who try to find out which of their products are eligible for claim. - Suggests adding more examples that suit different scenarios in the proposed conditions or explanatory statements to provide more clarity. - Education and developing guidance material would reduce ambiguity and assist interpretation. - Seeks clarity when whole or cut fruits are used as ingredient and processed during production, e.g. smoothie made from ready-made puree and juice (no claim permitted), vs made from fresh 		<p>To assist implementation, FSANZ expects to inform consumers, public health professionals and the food industry about the changes in requirements for 'no added sugar(s)' claims and will engage with enforcement agencies to assist with any guidance, as required. See section 4.2.</p>

Issue	Raised by	FSANZ response
<p>fruit and water. Do conditions change depending on forms of incoming ingredients even though composition (e.g. total sugar content) may be similar?</p> <ul style="list-style-type: none"> - Could FSANZ consider a mandatory requirement to name the form/state of the fruit product in the ingredient list where a 'no added' claim is made. Statement of ingredients may currently only state the name of the fruit (e.g. apple) and not the state/form (e.g. 'apple puree'), making in challenging for enforcement. Jurisdictions would need significant resources to verify the form of fruit based on industry-supplied recipes/formulations 		
<p>Fruit bars and fruit ball snacks comprised of dried fruit or fruit puree not able to make claim limit ability to differentiate 'no added sugar' fruit products from other products that add cheaper and less nutritious refined sugar and glucose syrups (without fibre and micronutrients) as an ingredient.</p>	Industry	<p>In relation to fruit products, FSANZ has changed the approach as proposed at CFS by removing the list of fruit products and instead applying disqualifying criteria based on the (total) sugar content of a food to minimise the risk of consumers being misled and support choices consistent with dietary guidelines.</p> <p>Food containing fruit sources will be permitted to make claims if the sugar content of the food is below the threshold amount(s). See section 3.3.3.1.</p>
<p>Reduced fibre content of fruit juice should not be determinant when juice or concentrate is added to a high fibre product such as muesli.</p>	Industry	See above response.
<p>Paste made from blended dried fruit without additional sugar should be excluded as dried fruit is a core, whole food.</p>	Industry	See above response.
<p>Concentrated puree is fruit puree with water removed and should be treated in same manner as dried fruit. Refers to Codex Standard re Brix value.</p>	Industry	See above response.

Issue	Raised by	FSANZ response
<p>Freeze dried fruit contains same fibre and nutrition as whole fruit. Small amounts used in foods as more concentrated form. Incorporating into ambient temp foods using freeze drying as storage allows consumer to get benefits of fruits in products. Proposal would prejudice Australian native freeze dried fruits (e.g. Davidson plum) which cannot be used fresh in ambient temperature foods.</p>	<p>Industry</p>	<p>See above response. This approach permits claims on foods containing smaller amounts of fruit products including freeze dried, subject to meeting claim conditions. See section 3.3.3.1.</p>
<p>Bottled and canned fruit products are referred to specifically. The Code should be drafted to consider packaging innovation.</p>	<p>Industry</p>	<p>In relation to fruit products, FSANZ has changed the approach as proposed at CFS by removing the list of fruit products and instead applying disqualifying criteria based on the (total) sugar content of a food. This will apply regardless of the packaging and therefore accommodates innovation. See section 3.3.3.1.</p>
<p>Does not support exemption for fruit juice used in canned and frozen fruit. Reasons included:</p> <ul style="list-style-type: none"> - Contain higher sugar content than fresh fruit. - Deionised juice is often the juice used. - Can still make comparative claims for sugar for marketing. 	<p>Public Health Consumer Academia Government</p>	<p>Claims will not be permitted when a food contains 'added sugar' as defined which includes deionised juice (see section 3.3.2). In addition, FSANZ has changed the approach as proposed at CFS by applying disqualifying criteria based on the (total) sugar content of a food to minimise the risk of consumers being misled and support choices consistent with dietary guidelines. See section 3.3.3.1.</p>
<p>Unclear if other forms of preserved fruit products are captured by proposed exemption for canned and frozen fruits (e.g. raw cut fruits in plastic containers and jars or fruit compotes). Suggest describe exemption more broadly than specifically for canned and frozen.</p>	<p>Government</p>	<p>In relation to the exemption for canned and frozen fruits, FSANZ has changed the approach as proposed at CFS by applying disqualifying criteria based on the (total) sugar content of a food which will make implementation and enforcement simpler. See section 3.3.3.1</p>
<p>Drafting suggests deionised fruit juice added to canned or frozen fruit may be able to make claim. Suggests inserting 'deionised fruit juice' after 'other than concentrated fruit juice' in condition (a)(iii) to reduce ambiguity and achieve consistency in treatment of concentrated and deionised fruit juice.</p>	<p>Government</p>	<p>FSANZ has clarified 'added sugar' as defined so that 'no added sugar(s)' claims will not be permitted on canned or frozen fruit when deionised juice has been added (see section 3.3.2).</p>

Issue	Raised by	FSANZ response
<p>Processed vegetable products should be treated the same as processed fruit products (e.g. vegetable juice, paste, puree etc). Reasons included:</p> <ul style="list-style-type: none"> - Can contain high sugar content and used for sweetening (e.g. beet juice concentrate, sweet potatoes are often used in infant vegetable puree products). - The sugar will behave the same way in the body regardless of its source. - Claim would contradict intent of dietary guidelines to moderate sugar intake - Future-proof against future application of vegetable-based sweeteners (example provided). - Vegetable juice is not highlighted in dietary guidelines as an occasional substitute for unprocessed vegetables. Excluding vegetable concentrates introduces a loophole for industry. 	<p>Academia Public health Consumer Government Industry</p>	<p>FSANZ has changed the approach as proposed at CFS so the vegetable products are treated the same as fruit products. See sections 3.3.2 and 3.3.3.1.</p>
<p>Include vegetable products in condition (a) or additional claim conditions relating to total sugar content.</p>	<p>Government</p>	<p>FSANZ has changed the approach as proposed at CFS by applying disqualifying criteria based on the (total) sugar content of a food which captures vegetable products. See section 3.3.3.1.</p>
<p>Vegetable products are added for nutrition, characterising ingredients, and other purposes rather than sweetening so their exclusion is appropriate.</p>	<p>Industry</p>	<p>FSANZ has changed the approach as proposed at CFS by applying disqualifying criteria based on the (total) sugar content of a food noting most vegetable products that do not contain 'added sugar' as defined, or are concentrated, will likely be permitted to make claims. See section 3.3.3.1.</p>
<p>The addition of dried fruit should preclude a 'no added sugar/s' claim as evidence of its health effects is limited. A precautionary approach is recommended, which aligns with dietary guidelines.</p> <p>Does not support exclusion for whole, cut or chopped dried fruit. Reasons included:</p>	<p>Academia, Consumer Public Health Government</p>	<p>In relation to fruit products, FSANZ has changed the approach as proposed at CFS by removing the list of fruit products and instead applying disqualifying criteria based on the (total) sugar content of a food to minimise the risk of consumers being misled and support choices consistent with dietary guidelines.</p> <p>Food containing concentrated fruit sources including dried fruit will be permitted to make claims if the sugar content of the food is below the threshold amount(s). See section 3.3.3.1.</p>

Issue	Raised by	FSANZ response
<ul style="list-style-type: none"> - high-in sugar, sticky and acidic with negative impacts on teeth. - eating large amounts will contribute significantly to sugar intake. - Inconsistent with approach for fruit juice which is treated similarly to dried fruit in Australian dietary guidelines. - Dried fruit is often used as a sweetener in infant foods and should be considered an added sugar. <p>If dried fruit excluded from the definition of added sugar, the definition must clearly distinguish traditional dried fruit from that which has been processed or added to.</p>		
<p>The addition of dried fruit should not preclude a no added sugars claim as is used for colour, taste, texture, fruit content claims etc—not just as a sweetener.</p> <p>Classifying whole dried fruit (e.g. sultanas, dates) as added sugars ignores that they are a natural whole food product with all fibre and nutrition retained.</p> <p>Seeks clarity on whether product with whole fruit pieces which is not adding fruit sugar will be able to make claim (e.g. dried fruits coated in sugar, raisins).</p> <p>Proposal would allow products to which whole fruit or dried fruit were added and then milled could make claim. Same product prepared by pureeing fruit in advance would not be able to make claim.</p>	Industry	See response above.
Include fruit paste to capture all potential current and emerging fruit-based	Government	In relation to fruit products, FSANZ has changed the approach as proposed at CFS by applying disqualifying criteria based on the (total) sugar content of a food. Food

Issue	Raised by	FSANZ response
sweeteners; term used in Codex guideline for the use of nutrition and health claims (CAC/GL 23-1997).		containing concentrated fruit sources including fruit pastes will not be permitted to make a claim if the sugar content of the food is above the threshold amount(s). See section 3.3.3.1.
Coconut water and cream also contain sugars and should be captured.	Academia	FSANZ has changed the approach as proposed at CFS by applying disqualifying criteria based on the (total) sugar content of a food. See section 3.3.3.1.
Proposal may result in encouraging manufacturers to replace processed fruits with cheaper sweeteners and flavourings in their products. For example, manufacturers may choose to replace fruit content in their products with artificial sweeteners to retain 'no added sugar(s)' claim. Likely to result in reduction of fruit and vegetable consumption in general population. Consequently, the levels of micronutrients available in the food would be reduced. Suggests overall impact including the potential change in other nutrient intakes should be assessed.	Industry Government	In relation to fruit products, FSANZ has changed the approach as proposed at CFS by removing the list of fruit products and instead applying disqualifying criteria based on the (total) sugar content of a food. This approach will reduce the likelihood of fruit ingredients being replaced. See section 3.3.3.1.
<p>Does not support claim prohibition for blends/combinations of different types of fruit.</p> <ul style="list-style-type: none"> - Confusing and illogical. E.g, fruit juice or puree on own can make claim but not when mixed (example in (a) should be removed). - Fruit pieces sold in fruit juice, similar preserving processed to canning, not able to make claim. - Inconsistent treatment of intrinsic sugars in dairy vs fruit will confuse and mislead consumers. - Existing regulation allows fruit juice with puree to make claims. Tropical juice with 2 or more fruit products mixed together (e.g. juice and puree) would not be able to make claim where apple and orange juice can. Any product 	Industry Retailer	FSANZ has changed the approach as proposed at CFS including in relation to blends/combination of fruit products, by applying disqualifying criteria based on the (total) sugar content of a food to minimise the risk of consumers being misled and support choices consistent with dietary guidelines. See section 3.3.3.1.

Issue	Raised by	FSANZ response
<p>which meets Std 2.6.1. should be able to make claim. Codex Std allows puree/some fruits cannot be juiced.</p> <ul style="list-style-type: none"> - Tropical fruit juice products have puree in low percentages. Recommends instead of prohibiting product with fruit puree, prescribing a maximum percentage of puree (e.g. 15%). - Loss of consumer value of claims on products which are 100% fruit vs similar products with other added sugars. - Confusing for consumers who understand sugar from fruit to be natural. - Purpose of blending for variety of reasons (flavour, variety) not always for sweetness of indicator of higher sugar content - Further clarity re what a blend or combination of different fruit products means and how applied in practice. <p>Any combination of fruit products should be able to make claim provided there is enough free water available to reconstitute the fruit product. When in singular, blend or mixed applications, definition of a juice or puree should not change and thus their applicability for a claim should also not change</p>		
<p>Differentiation between 'single-ingredient' and 'multiple-ingredients' is oversimplification and does not make logical sense. Addition of small quantities of other ingredients or different fruit format (freeze dried) does not change fact sugar not added. Suggest exemption, e.g. where 2 or</p>	<p>Industry</p>	<p>In relation to fruit products, FSANZ has changed the approach as proposed at CFS by removing the list of fruit products and instead applying disqualifying criteria based on the (total) sugar content of a food. See section 3.3.3.1.</p>

Issue	Raised by	FSANZ response
<p>more fruit products individually can make claim, then any combination of those fruit products, with or without water, is also able to make claim. Also suggest expanding so any fruit products and non-fruit product which can individually make claim should also be able to make claim when combined.</p>		
<p>Require clarity re blend of fruit and vegetable products (e.g. pumpkin and apple purees; pear, carrot and beetroot juice blend that also contains pumpkin puree). If food sold as a vegetable product contains a fruit product (e.g. food sold as 'spinach and kale juice' that contains pear juice as an ingredient), it should not be permitted to make claim, as in this case it is likely fruit product is used for sweetening purpose. However, if food is sold as fruit and vegetable blend product (e.g. food sold as 'orange and carrot juice'), claim should be permitted. This is consistent with the approach for fruit juice blend product.</p>	Government	<p>FSANZ has changed the approach proposed at CFS including in relation to blends/combination of fruit products, by applying disqualifying criteria based on the (total) sugar content of a food to minimise the risk of consumers being misled and support choices consistent with dietary guidelines. See section 3.3.3.1.</p>
<p>Requests cranberry added to list of exempt fruit products with lemon and lime, and be permitted to make claim when contains added sugar for palatability given too tart when raw with a disclaimer similar to US (i.e. sweetener has been added for palatability in an amount not exceeding the total sugars of naturally sweet dried fruits).</p> <ul style="list-style-type: none"> - Very few fruits with intrinsic sugar <5% and average Brix to acid ratio of 6 or less (e.g. cranberries, lemons, limes, tart cherries). - Such fruits used for flavour/nutrition rather than sweetening due to inherent tart taste. 	Industry	<p>FSANZ has retained the existing approach based on the addition of sugars* to foods, so that a claim cannot be made if a food contains 'added sugar' (as defined) as an added ingredient. FSANZ considers it would be misleading to allow a 'no added sugar' claim when sugar is added to a food.</p> <p>In relation to fruit products, FSANZ has changed the approach as proposed at CFS by removing the list of fruit products (including exemptions for lemon and lime products) and instead applying disqualifying criteria based on the (total) sugar content of a food. See section 3.3.3.1.</p>

Issue	Raised by	FSANZ response
<ul style="list-style-type: none"> - Cranberries contain unique, beneficial nutrients not widely available via other food sources. - Dried cranberries and fruit drinks primary source given unique growing requirements for fresh. 		
Supports exemption for lemon and lime but not any other citrus fruits including lemon-like fruit 'lemonade fruit'.	Academia	FSANZ has changed the approach as proposed at CFS by removing the list of fruit products (including exemptions for lemon and lime products) and instead applying disqualifying criteria based on the (total) sugar content of a food. See section 3.3.3.1.
Lemon and lime less sweet but their acidic profile is detrimental to oral health.	Public Health	See response above.
Technical transformation of lemon or lime products to reduce acidity may allow exemption to be exploited in unforeseen ways.	Alcohol beverage industry	See response above.
Supports but recommends broadening to capture other fruits that could be added without adding sweetness (e.g. yuzu, tamarillo). Suggests any such fruit product cannot provide >1.5% sugars to final food.	Government	See response above.
More specification around types of products permitted to make claim could be helpful. Dietary guidelines suggest some substitutions in fruit and veg categories as starting point.	Academia	In relation to fruit products, FSANZ has changed the approach as proposed at CFS by removing the list of fruit products and instead applying disqualifying criteria based on the (total) sugar content of a food. See section 3.3.3.1.
Remove exemption for concentrated fruit juice (a)(iii) as could be interpreted it is not subject to claim conditions and create confusion.	Government	See response above.
<p>Fruit and vegetable definitions needs to be clear. Comments included:</p> <ul style="list-style-type: none"> - Is fruit definition required when already captured in Standards 1.2.7 and 1.2.8? - Relevance/alignment with Schedule 22 of the Code. - Whether 'fruiting vegetables' captured. - Whether tomato is fruit or vegetable. 	Government Industry Academia	In relation to fruit and vegetable products, FSANZ has changed the approach as proposed at CFS by removing the list of fruit products and instead applying disqualifying criteria based on the (total) sugar content of a food. Any need to define fruit and vegetables is therefore no longer relevant. See section 3.3.3.1.

Issue	Raised by	FSANZ response
<ul style="list-style-type: none"> - Examples of fruit may be needed (noting dietary guideline provide some examples). - Alignment with Australian Food Composition database could be considered. - Not clear what vegetables are exempt. 		
<p>'Cut' and 'chopped' for dried fruit exemption should be defined to reduce ambiguity.</p> <p>Prefers negative list-type approach for fruit products (as applied to dried fruit). Current positive-list approach may allow industry to re-name products to avoid condition. Suggests 'fruit product other than whole or cut fruit/dried fruit' to replace conditions (a)(ii)–(viii).</p>	Government	In relation to fruit products, FSANZ has changed the approach as proposed at CFS by removing the list of fruit products (and the exemption for whole, cut or chopped dried fruit) and instead applying disqualifying criteria based on the (total) sugar content of a food. See section 3.3.3.1.
<p>Each fruit product should be clearly defined. Comments included:</p> <ul style="list-style-type: none"> - Only 'fruit juice' and 'jam' defined in Code with compositional requirements. - Difficult to determine if dried fruit is not chopped but minced. - Definitions in Macquarie do not fully correspond to culinary sense (e.g. 'puree is cooked and sieved', but in culinary terms does not always have to be cooked). - Terms are broadly used and often interchangeably. 	Government Industry	In relation to fruit products, FSANZ has changed the approach as proposed at CFS by removing the list of fruit products and instead applying disqualifying criteria based on the (total) sugar content of a food. Any need to define terms is therefore no longer relevant. See section 3.3.3.1.
<p>Existing fruit juice and jam definitions may allow broader products than what is commonly understood as juice or jam (e.g. juice definition may be interpreted to include puree as this can be in liquid form).</p>	Government (NSW)	See response above.
<p>Requests fruit paste is added to condition (a).</p>	Industry	In relation to fruit products, FSANZ has changed the approach as proposed at CFS by applying disqualifying criteria based on the (total) sugar content of a food. Food

Issue	Raised by	FSANZ response
		containing concentrated fruit sources including fruit pastes will be permitted to make claims if the sugar content of the food is below the threshold amount(s). See section 3.3.3.1.

Application to alcoholic beverages

Issue	Raised by	FSANZ response
<p>Agrees to conditions based on addition of ingredients but considers:</p> <ul style="list-style-type: none"> - if applies to beer does not explicitly address the removal of sugar (through conversion to alcohol during fermentation) will confuse consumers and not create a level playing field for manufacturers. - the use of concentrated grape juice and sucrose for the production of wine are not additions because wine is made from grape juice and because they do not result in a substantive addition of free sugar to the final product. 	Alcohol beverage industry	<p>FSANZ has retained the approach based on the addition of 'added sugar' and clarified the intent in respect of residual sugars after fermentation in this report (see section 3.3.2.3).</p> <p>FSANZ has also changed the approach as proposed at CFS in relation to fruit products, by removing the list of fruit products and instead applying disqualifying criteria based on the (total) sugar content of a food. See section 3.3.3.1.</p>
Notes the position FSANZ has taken on fruit juice sold as and considers the definition of 'added sugars' does not apply this principle consistently to fermented alcoholic beverages such as beer and wine, and should be amended.	Alcohol beverage industry	In relation to fruit products, FSANZ has changed the approach as proposed at CFS by removing the list of fruit products and instead applying disqualifying criteria based on the (total) sugar content of a food (see section 3.3.3.1) and has clarified the intent in respect of residual sugars after fermentation in this report (see section 3.3.2.3).
In light of P1049 considers alcoholic beverages should not be able to make nutrition content claims about sugars including "no added sugar(s)" claims.	Government	The scope of P1062 is limited to defining and clarifying added sugars for the purposes of making 'no added sugar(s)' claims. As noted in section 1.4 whether such claims should be permitted per se is out of scope. Sugar claims about alcoholic beverages is being considered under P1049.
As per Standard 4.5.1 of the Code, sugar is not a permitted additive for still wine produced in Australia. Grape juice including concentrated grape juice may be used in the production of wine, sparkling wine or fortified	Government	FSANZ has changed the approach as proposed at CFS by removing the list of fruit products and instead applying disqualifying criteria based on the (total) sugar content of a food. See section 3.3.3.1.

Issue	Raised by	FSANZ response
wine. Sparkling wine produced in Australia may contain sugars (Section 4.5.1–6). Imported wine may have sugars added during production (Section 1.1.2–3).		FSANZ notes the requirements of Standard 4.5.1 and Standard 1.1.2 are not in scope of P1062. FSANZ would expect the status quo will continue noting the responsibility for interpretation of the Code rests with food enforcement authorities.
Malt and malt extracts are intrinsic to the production of beer and should not be considered as added sugar. This exclusion is also relevant to wine and cider produced by fermenting sugars in juices.	Industry	FSANZ notes the existing ‘no added sugar(s)’ claims conditions in Schedule 4 do not permit claims to be made when a food contains malt and malt extracts. Including malt and malt extracts in the definition of ‘added sugar’ maintains the current approach.
Does not support approach for fruit wines (e.g. cider): <ul style="list-style-type: none"> - Inequitable and confusing with claim permitted on 100% fruit juice but not fermented fruit juice. - Not able to differentiate fruit wines made with 100% juice and those with added sugar. - Not level playing field if claims permitted on other alcoholic beverages. - If claim banned, will FSANZ revisit other permitted carbohydrate and sugar claims? 	Alcohol beverage industry	FSANZ has changed the approach as proposed at CFS by removing the list of fruit products and instead applying disqualifying criteria based on the (total) sugar content of a food. See section 3.3.3.1.
Some fruit products used in production of beer. Conditions do not explicitly address fermentation of sugars to alcohol. Beer should be excluded or conditions need to address fermentation issue.	Alcohol beverage industry	FSANZ has clarified conditions in respect of residual sugars after fermentation (see section 3.3.2.3) and also changed the approach as proposed at CFS in relation to fruit products, by removing the list of fruit products and instead applying disqualifying criteria based on the (total) sugar content of a food. See section 3.3.3.1.
Fruit juice and concentrated grape juice should not be considered an addition in wine production. Sugars in grape must (juice) converted to alcohol and carbon dioxide by fermentation. Most sugars are converted and residual sugars typically quite low.	Alcohol beverage industry	See response above.
Seeks clarity on how conditions apply to wine. Requests FSANZ engage with grape and wine sector about changes in the Code	Government	See response above.

Issue	Raised by	FSANZ response
and consider international wine labelling laws and trade.		
Need clarity about alcoholic beverages made from fruit (wine, fruit wine, cider).	Government	See response above.

Residual 'added sugars' after fermentation

Issue	Raised by	FSANZ response
Suggests fermentation of sugars be further examined in this proposal, noting the increased popularity of fermented foods.	Government Retailer	As noted above, FSANZ has clarified in this report the intent in relation to residual 'added sugar' after fermentation. See section 3.3.2.3.
<p>There needs to be specific clarification of how (fermented) alcoholic beverages will be treated.</p> <p>Considers the definition of 'added sugars' should not apply to beer, however, if the decision is that it does apply then a clear distinction between residual sugars and added sugars is necessary to ensure that any qualification methodology adopted is accurate.</p> <p>It is vital the definition of added sugars is applied consistently to fermented products like beer and wine, so that consumers can make informed choices.</p> <p>Where a NIP is required, adopt a recipe-based calculation methodology and make the NIP accessible via QR code or digital linking.</p>	Alcohol beverage industry	<p>See response above.</p> <p>Declaring 'added sugars' in the NIP would be considered in Proposal P1058.</p>
Residual mono- and/or di-saccharides after fermentation should be 'added sugars' and therefore not be able to display a 'no added	Academia Consumer Public Health	See response above

Issue	Raised by	FSANZ response
sugar(s)' claim. This should be reflected in the 'added sugars' definition		
<p>Blanket inclusion of malt and malt extracts as added sugar should not apply when these are added for the purposes of fermentation. There are often no sugars remaining from these ingredients after fermentation.</p> <p>Calling out the malt as an added sugar before fermentation, is likely to confuse consumers when low sugar claims are used.</p>	Industry Alcohol beverage industry	Only residual 'added sugar' after fermentation are relevant to claim conditions. See section 3.3.2.3.
International regulations for added sugars either exempt sugars added for fermentation, use a threshold sugar content for alcoholic beverages, or do not apply to alcoholic beverages.	Alcohol beverage industry	In relation to 'no added sugar(s)' claim conditions, FSANZ considers the conditions should apply consistently across the food supply, including alcoholic beverages. Whether residual 'added sugar' after fermentation should be declared in the NIP will be considered in Proposal P1058.
Considers a different approach warranted for alcohol noting 'added sugars' is not a relevant concept for transformed (fermented) juice products such as cider or wine. Total residual sugar is relevant.	Alcohol beverage industry	As noted above, FSANZ has clarified in this report that foods and beverages with residual 'added sugar' after fermentation cannot display a 'no added sugar(s)' claim. See section 3.3.2.3.
Sources of carbohydrate used to produce grape wine (including grape juice or must, concentrated grape juice and sucrose) should not be considered 'added sugars' - whether for 'no added sugars' claims or for any other purpose.	Alcohol beverage industry	See section 3.3.3.1. FSANZ has changed the approach in relation to fruit-based ingredients. 'No added sugar(s)' claims on beverages without 'added sugar' as defined in condition (e) are permitted when the total sugars concentration is not more than 7.5 %.
From the CFS it appears beverages containing more than 1.15% alcohol by volume are not entitled to make claims related to sugars in Schedule 4-3. At present the relevant regulatory authorities consider the provisions in Schedule 4-3 relating to claims about sugars do apply to grape wine. Consequently, the particularities of grape wine should be taken into account when	Alcohol beverage industry	In the CFS report, the proposed conditions for 'no added sugar(s)' claims were based on the presence of 'added sugars' as defined in conditions (a) and (c) and the presence of fruit-based ingredients, applied consistently to all foods and beverages. It was not intended to broadly prohibit 'no added sugar(s)' claims on alcoholic beverages.

Issue	Raised by	FSANZ response
considering the definition of 'added sugars' in this proposal		

Sugars produced from hydrolysis

Issue	Raised by	FSANZ response
<p>Do not support the 1.5% threshold. Any product with sugars should not be allowed to display the 'no added sugars' claim as consumers should be able to trust the claim means the product does not contain added sugars.</p> <p>Sets a precedent for other products to apply for similar exemptions.</p> <p>Unclear if the exemption is based on 1.5% sugar by product weight, product serve size or by kilojoule content.</p>	Academia Government Public Health	<p>FSANZ considers the claim disqualifying criteria of 1.5% sugars concentration is appropriate to permit claims where the amount of sugars from hydrolysis is incidental. Such a small amount of sugars will have a minimal effect on the energy content of the food and its sweetness (see section 3.3.3.2).</p> <p>The 1.5% sugars concentration is on a product weight basis as normally determined for the nutrition information panel per 100 g/mL declarations.</p>
Suggests all sugars produced or left over from any processing method that results in the final product containing more sugars than the original raw ingredients should be included.	Academia Government Public Health	<p>FSANZ considers it is difficult to evaluate the costs and benefits of such a broad non-specific approach as a regulatory measure for the purpose of claim conditions. Should specific processing methods resulting in increased sugars concentrations be identified in the future, this could be further considered.</p> <p>Nutrient declarations in the nutrition information panel are generally based on the composition of the final food.</p>
Questions why the $\leq 1.5\%$ threshold should apply only to cereal-based milks. Could a threshold of sugars concentration of $\leq 1.5\%$ apply to all foods?	Government	FSANZ has applied the 1.5% sugars concentration claim disqualifying criteria to all foods with sugars produced from hydrolysis during food manufacture (see section 3.3.3.2).
How was the 1.5% threshold determined? Rationale should be provided in the explanatory statement and/or guidance. Does the production of plant-based milk made from other sources (e.g. legumes, nuts) involve unavoidable increase in sugar	Government	<p>The rationale is explained in the CFS report (section 5.3.2).</p> <p>In relation to plant milks, hydrolysis is only used to break up carbohydrates and so hydrolysis is only used for cereal-based milks, not legume or nut milks where the carbohydrate concentration is lower.</p>

Issue	Raised by	FSANZ response
<p>concentration due to hydrolysis for technological purposes?</p> <p>Concerned with arbitrary threshold of 1.5%. Only allows 4/30 oat beverage products that do not contain sugar in the ingredient list to continue to make claims. Suggest 3% threshold would be a sounder alternative.</p> <p>The proposed threshold of 1.5% is considered too low without taking into account batch-to-batch variation of $\pm 0.5\%$.</p> <p>Cereal-based plant milks are an alternative to cows milk which has an average sugar level of 4%. It would therefore not be beneficial to set this requirement for cereal-based plant milks while cow's milk could carry the claims and be perceived healthier. Supports having a threshold sugars concentration for plant-based milks that is similar to the sugars concentration in dairy milk products.</p> <p>The rationale is scientifically flawed and the 1.5% threshold scientifically unjustifiable. Starches and oligosaccharides can be broken down via salivary amylase into glucose in the oral cavity. Therefore, hydrolysis of starches and oligosaccharides in to sugars (i.e., glucose) within the food product is unlikely to have any detrimental effects beyond the original source ingredients: starches and oligosaccharides.</p>	<p>Retailer</p> <p>Industry</p>	<p>FSANZ is maintaining the 1.5% sugars concentration, however expects to review the changes from P1062 in the context of Proposal P1058 (see section 3.3.3.2).</p> <p>The approach of generally not permitting 'no added sugar(s)' claims is based in the fact that hydrolysis can be used to create sugars to sweeten products and that in the case of plant milks, some, with claims, have a similar sugars concentration (from the use of hydrolysis) to other plant milks with sugars added as an ingredient. The approach will result in the removal of 'no added sugar(s)' and 'unsweetened' claims from some products.</p> <p>Consumers can continue to compare the total sugar content of plant-based and dairy milks.</p> <p>As Proposal P1062 considered conditions for 'no added sugar(s)' claims, FSANZ's focus was on the circumstances under which claims should be permitted, based on consumer evidence and other information. Sugars produced from hydrolysis during manufacture end up in the final food as sugars, and so FSANZ had regard to whether such sugars should prevent claims from being made. The digestion of starches and oligosaccharides is a different issue to the sugar content and use of the 'no added sugar(s)' claims on foods.</p>
<p>Is the term 'cereal-based plant milk' appropriate in the Code as a legal document?</p>	<p>Government Industry</p>	<p>The term 'cereal-based plant milk' is no longer used in the draft variation (see Attachment A).</p>

Issue	Raised by	FSANZ response
<p>'Cereal-based plant milks' should be defined in the Code. Suggest the term 'cereal-based plant milk' be replaced with 'cereal-based beverage' in the Code as the former is not defined. Refers to Codex General Standard for the Use of Dairy Terms CXS 206-1999.</p>		
<p>Concerned including sugars from hydrolysis may not align with consumer and industry understanding of what an 'added sugars' is and therefore cause confusion. A 'no added sugar' claim allows consumers to make informed purchasing decisions as many products in this category to have added sugars.</p> <p>Most hydrolysis of sugars during processing is used for plant-based milks and these foods are not the target for limiting added sugars in the diet.</p>	Retailer Industry	<p>FSANZ considers generally food with sugars produced from hydrolysis during food manufacture should not display a 'no added sugar(s)' claim, a view broadly supported by submitters to the CFS. Consumer evidence suggests a 'no added sugar(s)' claim may be understood to mean the food has a reduced sugar content compared with a similar food without a claim.</p> <p>Not permitting the claim on cereal-based plant milks with sugars concentration > 1.5% removes the potential influence of claims on consumer understanding of sugars concentration when comparing different types of plant milks with sugars added as an ingredient and a similar sugars concentration.</p>
<p>Consumers would not understand how there could be added sugars in a product when there are no sugars in the ingredient list.</p>	Retailer Industry	<p>The approach will result in claims being removed from products with more than 1.5% sugars from hydrolysis. Therefore, there should be no conflict with sugars not being in the statement of ingredients.</p>
<p>Suggests FSANZ provide industry with technical guidance on how to determine of the product has undergone hydrolysis and how to calculate the ≤1.5% threshold to ensure a consistent approach is applied.</p>	Retailer Industry	<p>Technical guidance may be prepared in consultation with enforcement authorities.</p>
<p>The production of glucose resulting from the hydrolysis of starch in the presence of heat, water and acid is unintentional and a by-product of the manufacturing process, therefore should not be defined as an added sugar.</p> <p>For example, a recipe base sauce that contains a small amount of starch to thicken the product and improve mouthfeel, will</p>	Industry	<p>FSANZ has applied the claim disqualifying criteria of more than 1.5% sugars concentration to permit claims where the amount of sugars from hydrolysis is unavoidable and small (see section 3.3.3.2). As noted above, 1.5% sugars concentration is expected to be further considered under Proposal P1058.</p>

Issue	Raised by	FSANZ response
<p>hydrolyse in the presence of organic acid (acetic, citric), water and heat (>100°C). Glucose derived from the hydrolysis of starch is unlikely to impact the nutrition panel, or provide significant contribution to energy or sweeten the product.</p>		
<p>Preventing foods with sugars produced from hydrolysis during manufacture from displaying 'no added sugars' claims means the claim conditions are not solely based on addition of ingredients to foods. Should consider variations and exemptions to ensure future complications and complexity are not introduced.</p>	Industry	<p>FSANZ notes the distinction between the 'added sugar' definition being based on sugars added as ingredients and sugars produced from hydrolysis during food manufacture. However, we consider it is appropriate to have a separate claim condition relating to sugars produced from hydrolysis since this processing method can be used to intentionally increase the sugar concentration of a food.</p>
<p>A threshold that distinguishes between incidental sugars created by hydrolysis and sugars deliberately created by hydrolysis is required. Recommends 'intentional hydrolysis' or 'known hydrolysis methods' could be used.</p> <p>An arbitrary level may be limiting to other production types and products. Suggests future proofing the threshold concept to distinguish intentional/purposeful increase in sugars, by including 'incidental/intentional' language rather than a threshold to allow variation in production technology.</p>	Industry	<p>FSANZ has considered using 'intentional' or 'functional effect' type language instead of a sugars concentration to distinguish between incidental sugars and sugars deliberately created from hydrolysis. We consider such an approach would lack clarity for both industry and enforcement agencies. As discussed in section 3.3.3.2, we have applied the claim disqualifying criteria of more than 1.5% sugars concentration to all foods with sugars produced from hydrolysis during food manufacture to address intentional and unintentional/incidental sugars produced from hydrolysis.</p>
<p>How would products with a sugars concentration of 1.7% be presented in the NIP based on Proposal P1058? Recommends P1062 and P1058 are done in parallel.</p>	Industry	<p>Declarations in the NIP are out of scope for Proposal P1062, however this will be considered under Proposal P1058. See section 3.3.1.3.</p>
<p>Need further consideration of other technical purposes of hydrolysis which may influence the sugar level e.g. polysaccharides present in many fruits and vegetables to obtain</p>	Industry	<p>FSANZ has applied the claim disqualifying criteria of more than 1.5% sugars concentration to permit claims where the amount of sugars from hydrolysis is unavoidable and small (see section 3.3.3.2). As noted above, 1.5% sugars concentration is expected to be further considered under Proposal P1058.</p>

Issue	Raised by	FSANZ response
prebiotics GOS and FOS can result in incidental sugar production.		

Incidental presence of ‘added sugar’

Issue	Raised by	FSANZ response
Need to clarify if the “unintentional” addition of any additive (i.e. carrier in flavourings) would be included in claim condition for added sugar(s) e.g. maltodextrins are often used as a carrier.	Industry Retailer	FSANZ has decided to maintain the existing approach for ‘no added sugar(s)’ claim conditions in relation to the incidental presence of ‘added sugar’ (as defined) in foods from carriers of nutrients, processing aids, flavourings or other food additives. This issue will be considered under Proposal P1058. See section 3.3.2.4.
Carry-over ingredients e.g. processing aids with insignificant sugar content should be exempt to reduce complexity for food industry implementation, provide clarity for enforcement, and support innovation. Industry proposed a threshold amount (0.05 g per 100 mL) for incidental sugars in P1058.	Industry	
Proposes that carriers containing vitamins and minerals, and/or additives such as maltodextrin, be permitted to bear ‘no added sugar(s)’ and ‘unsweetened’ claims. Notes use for functional purposes, not for adding sweetness, and are present in insignificant amounts (provide examples) and usually does not change the total sugar content on the NIP of the final product. Note sugars, used as carriers, are not generally included in the ingredients list. Another technical purpose is sugars used as a colour. Request that this technical purpose also be considered, as use as a colour contributes an insignificant level of sugars.	Industry	

Issue	Raised by	FSANZ response
Fruit and vegetable products used as processing aids (e.g. small amounts of juice concentrates in extruded products) should be excluded.	Industry	
Seek to clarify that ingredients added as dietary fibres would not be captured by the conditions. Notes dietary fibre can be a poly- or oligosaccharide, as an ingredient, and can include residual sugars (mono and disaccharides) left over from creation of the dietary fibre. These sugars cannot be completely removed. This is similar to the concentration of sugars that occurs during hydrolysis of cereal based beverages. As with these beverages, these ingredients are not used to impart a sweet taste. Request that dietary fibre, added as an ingredient, be exempted from the conditions. Inhibiting the use of no added sugar claims could disincentivize manufacturers from using dietary fibre.	Industry	

Low energy sugars

Issue	Raised by	FSANZ response
Suggests changing wording to “food containing the hexose monosaccharide D-tagatose as an ADDED ingredient” to clarify that products naturally containing this component are excluded from the requirement.	Retailer	The approved variation lists ‘low energy hexose monosaccharide D-tagatose’ as an ‘added sugar’ and refers to ‘added sugar’ as an added ingredient (see conditions (b)(i) and (e) at Attachment A).
Foods with any low-energy sugars (monosaccharides or disaccharides) should not be permitted to display ‘no added sugar(s)’ claims.	Academia Industry Consumer Public health	FSANZ considers the available information and evidence about low energy sugars should be considered on a case-by-case basis. Low energy sugars may vary in their energy content, risk of contributing to dental decay and metabolic properties (see section 3.3.2.2).

Issue	Raised by	FSANZ response
Low energy sugars should be included in the definition of added sugar.		The low energy sugar D-tagatose is now clearly listed as an 'added sugar' (see condition (e) at Attachment A).
Suggests it should be clearer in the definition that D-tagatose is included as a hexose monosaccharide.	Government	The low energy sugar D-tagatose is now clearly listed as an 'added sugar' (see condition (e) at Attachment A).
Recommends excluding D-tagatose and other non-traditional low energy sugars from 'added sugars' given their reduced energy contribution to the diet, reduced risk of dental caries and their different metabolic pathway.	Industry	The dietary guidelines recommend limiting added sugars intake because of the energy contribution from sugars to the diet and because sugars contribute to tooth decay. Given D-tagatose contains 65% of the energy content of traditional sugars, FSANZ considers foods containing D-tagatose should not be permitted to display a 'no added sugar(s)' claim. A 'low sugar' claim could potentially be used.
Recommends all substances listed in subsection S11—2(3) of Schedule 11 should be exempt from categorisation as 'added sugars'. D-tagatose and the other substances in this list are only partially digested and are not associated with the chronic disease risks. This would be a consistent approach. Companies are unlikely to replace traditional sugars or high-intensity sweeteners with D-tagatose if it is considered an 'added sugar'. Categorising D-tagatose as an 'added sugar' would only increase consumer confusion given its health benefits.	Industry	Substances listed in subsection S11—2(3) of Schedule 11 include polyols, polydextrose and other compounds which are not 'sugars' (monosaccharides or disaccharides). Therefore it is not appropriate to exempt all listed substances from being 'added sugar'. Section 3.3.2.2 provides the rationale for our approach.
Defining 'added sugars' as all hexose mono- and di-saccharides is an oversimplification and neglects accepted nutritional science that indicates they are not all equal.	Industry	FSANZ has decided that it will consider whether low energy sugars should be an 'added sugar' on a case-by-case basis (see section 3.3.2.2).
Suggests 'added sugars' definition should exclude both low energy sugars and polyols. Suggests alternative definitions: 'monosaccharides and disaccharides composed of glucose, fructose, and/or galactose'; or 'hexose monosaccharides and disaccharides except those with beneficial effects on human health, such as D-tagatose'.	Industry	The Code defines 'sugars' for sugars declarations in the NIP as 'monosaccharides and disaccharides'. Reviewing this definition is out of scope of Proposal P1062. 'Added sugar' is a subset of total sugars. As polyols are not monosaccharides and disaccharides, they are not considered 'added sugar'.

Issue	Raised by	FSANZ response
<p>If FSANZ believes that substances added during processing must be distinguished from those inherent in the food via the NIP and its eligibility for “no added sugar(s)” claims, would alternatively suggest the NIP for products containing D-tagatose and the other substances in subsection S11–2(3) of Schedule 11 contain a separate listing under ‘carbohydrates’ as ‘low energy sugars’ or the name of the sugar itself. These products would be eligible for “no traditional added sugar(s)” or “sweetened with low energy sugars” or “sweetened with [name of sugar]” claims.</p>	<p>Industry</p>	<p>There is an existing provision in the Code (subsection 1.2.8–6(9)) that requires components listed in in subsection S11–2(3) to be declared in the NIP under certain circumstances. Reviewing such a provision is out of scope of Proposal P1062.</p> <p>FSANZ notes the Code does not prevent claims such as ‘sweetened with low energy sugars’ or ‘sweetened with D-tagatose’ from being made.</p>
<p>Concerned D-tagatose would be captured as an ‘added sugar’ in the NIP and treated the same way as traditional sugar. Recommend that P1062 and P1058 are conducted in parallel.</p>	<p>Industry</p>	<p>FSANZ will consider whether D-tagatose should be an ‘added sugar’ for NIP declarations under Proposal P1058.</p> <p>See section 3.3.1.3 on the relationship between Proposals P1062 and P1058.</p>
<p>Seeks clarity on how FSANZ will evaluate other non-traditional sugars and what criteria will be used noting FSANZ is currently assessing D-allulose for permission to use.</p> <p>Recommends consistent regulations for all low energy sugars. Provides consumers with a better choice of products and offers an alternative to products containing high energy added sugar.</p>	<p>Industry</p>	<p>The assessment of a low energy sugar for permission for use and the application of labelling requirements including eligibility to make claims would be undertaken consistent with statutory requirements including public consultation.</p> <p>The energy content of sugars and the contribution of sugars to tooth decay are the basis of the ‘added sugars’ recommendations in the dietary guidelines.</p>

‘Unsweetened’ claim conditions

Issue	Raised by	FSANZ response
<p>Suggests there should be a consistent approach for both ‘no added sugars’ and ‘unsweetened’ claims whereby foods</p>	<p>Consumer Public Health</p>	<p>‘No added sugar(s)’ claim permissions for foods containing low energy sugars are discussed in section 3.3.2.2.</p>

Issue	Raised by	FSANZ response
containing added low energy sugars should not be permitted to display either claim.		
May be duplication in claim conditions. For example D-tagatose would not be permitted to make an 'unsweetened' claim because of unsweetened claim conditions (a) and (c).	Government	We agree there are two claim conditions preventing foods containing D-tagatose from displaying 'unsweetened' claims. However, as we are assessing eligibility of foods containing low energy sugars to make a 'no added sugar(s)' claim on a case-by-case basis, there could be a situation where a 'no added sugar(s)' claim is permitted and an 'unsweetened' claim not permitted.
Supports consistency that 'unsweetened' claims should not be permitted on foods containing any substances in subsection S11-2(3).	Government	Condition (c) for 'unsweetened' claims only relates to monosaccharides and disaccharides in subsection S11-2(3), not all the substances listed.
For the sake of simplicity and consumer understanding, supports FSANZ's recommendation that when mono- and disaccharides are added to foods in amounts >0.5%, the food should not be permitted to make an 'unsweetened claim'.	Retailer	FSANZ has not recommended applying a threshold sugars concentration of >0.5% to 'unsweetened' claim conditions. Foods displaying 'unsweetened' claims must meet the conditions for 'no added sugar(s)' claims (and other conditions).
Recommends non-sugar sweeteners such as sorbitol, mannitol, glycerol, xylitol, isomalt, mannitol syrup and lactitol be excluded from 'added sugars' given their low energy contribution to the diet, they do not contribute to tooth decay and do not markedly elevate blood sugar levels.	Industry	Sugar alcohols and isomalt are currently not considered 'added sugar' for the purpose of 'no added sugar(s)' claims and this approach is being maintained. It is only 'unsweetened' claims that cannot be made when the listed sugars alcohols and isomalt are present in a food.
Disagrees with the term 'intense sweeteners'. It is not defined in the Code, nor consistently in the literature and doesn't capture all sweeteners used in the food supply. Suggests the term 'non-sugar sweetener' is defined in the Code using the WHO definition. Would ensure all low and non-calorie sweeteners are captured within the definition including acesulfame K, aspartame, advantame, cyclamates, neotame, saccharin, sucralose, stevia and stevia derivatives.	Academia Consumer Government Public health	FSANZ is maintaining the term 'intense sweetener' noting it is used elsewhere in the Code. See section 3.3.4.2 for further discussion.

Issue	Raised by	FSANZ response
Suggests adding a definition of 'intense sweeteners' (as food additives) in the Code and adding erythritol to the list of sugar alcohols.	Government	FSANZ does not think a definition of 'intense sweetener' is needed as it is well understood by industry. FSANZ is not aware of problems with the use of the term in the Code. Erythritol has been added to 'unsweetened' claim condition (b).
Approach may promote the use of alternative sweeteners. Suggests consider alternative labelling (e.g. artificially sweetened, sweetened with...) rather than 'no added sugar(s)'.	Government	'No added sugar(s)' is a voluntary claim as are all claims. Considering prohibiting 'no added sugar(s)' claims on foods with intense sweeteners, sugar alcohols etc is outside the scope of Proposal P1062.
Suggests foods with intense sweeteners should be permitted to make a 'no added sugar(s)' claim but not 'unsweetened' claim.	Industry	The claim conditions do permit foods with intense sweeteners to make 'no added sugar(s)' claims but not 'unsweetened' claims.

Synonyms and other similar claims

Issue	Raised by	FSANZ response
Seeks clarification on synonyms for 'no added sugar' such as 'no added refined sugar'.	Industry	The scope of P1062 is limited to definition and clarification of added sugars for the purposes of making 'no added sugar(s)' and 'unsweetened' nutrition content claims. Consistent with section 1.2.7–12(3) of Standard 1.2.7, synonyms of these descriptors are in scope. FSANZ notes the responsibility for interpretation of the Code as applied by Australian and New Zealand food laws rests with food enforcement authorities.
Seeks clarity on whether a claim such as 'natural sweetener' is covered by the proposal.	Alcohol beverage industry	As noted above the scope of P1062 is limited to 'no added sugar(s)' and 'unsweetened' nutrition content claims including synonyms of these descriptors. Nutrition content claims are defined in Standard 1.2.7 to mean a claim about the presence or absence of a nutrient. FSANZ notes the responsibility for interpretation of the Code rests with food enforcement authorities.
Believe other sugar related claims such as 'no or no added cane sugar' or 'no or no added refined sugar' should similarly be regulated as per 'no added sugar' claims since, they too, provide a health halo to foods. FSANZ has identified low level of consumer understanding of the meaning of 'no added sugar(s)' claim, with nearly half of consumers	Public health Government	As noted above the scope of P1062 is limited to definition and clarification of added sugars for the purposes of making 'no added sugar(s)' and 'unsweetened' nutrition content claims. Consistent with subsection 1.2.7–12(3) of Standard 1.2.7, synonyms of these descriptors are in scope. FSANZ notes the responsibility for interpretation of the Code rests with food enforcement authorities. Based on consumer evidence that added sugars are commonly understood by consumers to be about sugar that is added during manufacturing or food preparation, rather than being inherent or naturally occurring in the food, FSANZ has maintained not permitting claims when 'added sugar' as defined is added to food (see section 3.3.2).

Issue	Raised by	FSANZ response
<p>perceiving as meaning no sugar in the food. Considers this may enhance confusion e.g. 'no added sugar(s)' and 'no sugar added' are likely to have different meanings especially for fruit products.</p> <p>Notes claims similar to 'no added sugar(s)' e.g. 'natural sugars', 'naturally occurring sugars' and 'refined sugars', 'no cane sugar' are out of scope but need to consider regulating other sugar related claims that may mislead consumers. Suggest likely to see wider use of other claims on foods being ineligible to make "no added sugar" claims. Does not consider "no refined sugars" to be a synonym of "no added sugars", because the definition for "no added sugars" includes both refined and unrefined sugars.</p> <p>Could address by prohibiting the use of other descriptors of sugar or providing restrictions to these (and similar claims about any type of sugars) or prescribing the wording of 'no added sugar(s)' claims.</p> <p>And/or developing specific conditions for "no refined sugars" claims, based on the final sugars content of the food.</p> <p>Request conditions for "no refined sugar" claims be included to prevent foods high in sugar from making such claims due to their misleading nature.</p>		<p>However as consumer evidence also shows that 'no added sugar(s) claims can increase how healthy consumers perceive food products to be and can influence purchasing decisions, FSANZ has applied disqualifying criteria based on the (total) sugar content to reduce the risk of consumers being misled in regard to naturally occurring sugar in fruit products. See section 3.3.3.1.</p>
<p>The dietary guidelines are attempting to address high consumption of what the WHO terms 'free sugars'. Does not support use of this term for labels and claims unless consumer research is undertaken in a range of consumer audiences including culturally</p>	<p>Government</p>	<p>As noted above the scope of P1062 is limited to definition and clarification of added sugars for the purposes of making 'no added sugar(s)' and 'unsweetened' nutrition content claims including synonyms. As added sugar is the term used in the dietary guidelines, and the approach taken defines this term, it is unlikely claims about 'free sugar' will be made.</p>

Issue	Raised by	FSANZ response
and linguistically diverse consumers to ensure 'free sugars' is not confused with 'free of sugar' or 'sugar free'.		

Dietary guidelines

Issue	Raised by	FSANZ response
Notes the current in-progress review of the Australian Dietary Guidelines (ADGs) may impact the outcomes of both P1062 and P1058. Concerned aligning definitions with recommendations currently under review and not due to be completed until 2025.	Retailer Industry Government	Food Ministers asked FSANZ to stage the work on added sugars as a priority by defining and clarifying added sugars for the purposes of making 'no added sugar(s)' claims to ensure alignment with current Australian and New Zealand dietary guidelines. Subject to the outcomes of the review of the Australian Dietary Guidelines, added sugar labelling could be considered again in the future in the context of both the updated Australian and existing New Zealand dietary guidelines if considered necessary.
The dietary guidelines do not identify carbohydrates used to produce alcoholic beverages as a concern.	Alcoholic beverage industry	The scope of P1062 is limited to definition and clarification of added sugars for the claim purposes. The dietary guidelines specifically recommend to limit sugar not carbohydrate intake. FSANZ has clarified foods and beverages with residual 'added sugars' after fermentation cannot display a 'no added sugar(s)' claim. See section 3.3.2.3.
The ADGs do not specify plain or unsweetened products when recommending milk cheese and yoghurt. Preventing these products from displaying no added sugar claims could discourage people from purchasing them.	Industry	FSANZ notes the approach taken is not intended to prevent dairy foods from making claims. Rather the claim conditions are intended to prevent claims on foods containing 'added sugar' as defined and to disqualify foods based on the (total) sugar content of a food.
Considers there is an important role for government and public health bodies to educate people about added sugars, the importance of the Dietary Guidelines and making healthy food choices.	Industry	As noted in section 4.2, FSANZ recognises there is a role for education and promotion of the dietary guidelines to raise consumers' awareness of, and understanding, about healthy dietary patterns including in relation to added sugars.

Consultation process

Issue	Raised by	FSANZ response
<p>Difficulty in responding to detailed proposal in such a short period of time and has not been possible to adequately consult with impacted members</p> <p>Acknowledge Food Ministers sought to expedite this work, but are concerned that doing so for such a complex issue will result in future unintended consequences such regulatory barriers, international inconsistencies and potential to mislead or confuse consumers. Recognise the complexities of added sugar labelling and do not think P1062 has allowed due time to consult and respond to the issue (27 days including weekends and a public holiday). The Australian government's own guidance for public consultation is between 30 and 60 days depending on the complexity of the issue.</p> <p>Note the World Trade Organization (WTO) notification period is 60 days and assert that, regardless of the desire to expedite this work, the complexity of the issue means the public should be afforded the same opportunity to consider and comment as that provided to international competitors.</p> <p>Not clear on how FSANZ is accommodating the WTO comment period based on assessment timeframes.</p>	<p>Industry Alcoholic beverage industry</p>	<p>Ministers asked for the work on P1062 to be a priority. FSANZ was able to draw on evidence and information provided in targeted consultation on Proposal P1058 (see section 2.7.1) in preparing the CFS. The public consultation period was four weeks rather than the usual six weeks but was not inconsistent with government guidelines, noting the usual 6 weeks consultation period is less than 60 days (i.e. 42 days).</p> <p>Use of citizen space with structured questions was intended to assist submitters in providing feedback. In addition, FSANZ held a webinar to explain the proposed approach to stakeholders to aid them in providing a submission.</p> <p>In regard to the WTO notification, the available timeframe has allowed FSANZ to consider all responses received and provide these to the FSANZ Board. See section 3.1 and Table 2 to Appendix 1.</p>

International consistency

Issue	Raised by	FSANZ response
Harmonisation with international standards and regulations is extremely important and needs to be further taken into consideration for any changes being proposed.	Industry Alcoholic beverage industry	FSANZ has considered claim conditions in other countries however, there is no consistency in 'no added sugar(s)' claim conditions internationally.
Inconsistency will create challenges for suppliers in understanding what information they must provide. This would mean that all ingredient and finished product will need to be assessed and updated for products making no added sugar claims, to ensure it aligns with any new definitions.	Industry	As noted above, there is no consistency in 'no added sugar(s)' claim conditions internationally. As is currently the case, food producers, manufacturers, ingredient suppliers and importers need to ensure food sold in the Australian and New Zealand market complies with the Code.
Requiring grape juice/must that is fermented to produce alcoholic beverages to be labelled as added sugar is inconsistent with international regulations and conflicts with obligations under international trade agreements.	Alcoholic beverage industry	'Added sugars' declarations in the NIP will be considered under Proposal P1058.
Malt is not included in added sugars definitions used in other jurisdictions e.g. Codex, South Africa, Brazil.	Alcoholic beverage industry	As noted above, there is no consistency in 'no added sugar(s)' claim conditions internationally. FSANZ notes the existing 'no added sugar(s)' claims conditions in Schedule 4 do not permit claims to be made when a food contains malt and malt extracts. Including malt and malt extracts in the definition of 'added sugar' maintains the current approach.

Implementation

Issue	Raised by	FSANZ response
Suggests the transition period align with P1058 as these two proposals are closely related and are likely to have implications for one another.	Government Retailer Industry	In recognition that P1062 is part of staged work and linked to Proposal P1058, FSANZ expects to review the changes made by P1062 in its assessment and decisions relating to P1058 to ensure regulatory coherence. See section 3.3.1.3. FSANZ therefore has provided a four year transition period with an additional two year stock in trade period to allow the changes to be considered in the context of P1058 before they come into full effect (see section 4.1).

Issue	Raised by	FSANZ response
Asked for the relationship between P1062 and other proposed alcohol labelling changes (e.g. P1049, P1058 and P1059) be considered and that any transition period be aligned to minimise cost and administrative burden for industry.	Alcoholic beverage industry Retailer	See response above. The four year transition period (with two year stock in trade) will also allow for aligning proposed labelling changes under consideration (i.e. P1058, P1049, P1059) to lessen the impacts on industry.
Supports a three-year implementation period and be coordinated with P1058 and other Proposals which may require a labelling change.	Alcoholic beverage industry	FSANZ has provided a four year transition period with an additional two year stock in trade period to allow the P1062 Code amendments to be considered in the context of P1058 before they come into full effect and to align with other labelling changes. See sections 3.3.1.3 and 4.1.
Supports a three-year transition period plus one year stock-in-trade as there have been a raft of recent labelling changes imposed e.g. Plain English allergens, Country of origin.	Industry	See response above.
Suggests a three-year transition period as the proposed claim conditions are highly complicated, and given a wide range of foods may be affected this complexity may pose challenges in implementation.	Government	See response above.
Request providing a stock in trade provision particularly for long shelf life products	Alcoholic beverage industry Industry Retailer	The transitional arrangements have been changed since the CFS and a four year transition period is provided with an additional two year stock in trade period. See section 4.1.
Considers Section 7.1 of the CFS is not clear – it says that “at the end of the transition period, all food products making these claims would need to comply with the variation.” Unclear whether this is referring to products <i>sold</i> after the end of the transition period, or products <i>labelled</i> after the end of the transition period. Proposes it should be labelled as has been the case with the recent pregnancy warning labelling changes.	Alcoholic beverage industry	See response above.
As there is no food safety issue, requests FSANZ consider a longer transition period (three to five years) with stock in trade	Industry	FSANZ has changed the transitional arrangements proposed at CFS to a four year transition period with an additional two year stock in trade period. This will allow P1062 Code amendments to be considered in the context of P1058 before they come into full

Issue	Raised by	FSANZ response
<p>provisions (one year to enduring) for the following reasons:</p> <ul style="list-style-type: none"> • Long shelf life products will be unable to comply with the provision. • The food industry face multiple label changes arising from wide-impacting requirements such as allergen labelling, and Health Star Rating. • Multiple label changes require a coordinated and flexible approach to avoid prohibitive cost and complexity. • To minimise the costs to industry and reduce the environmental impacts such as disposal of packaging. • For manufacturers needing to reformulate to keep sugar claims require time for product development, including shelf life testing, which can take up to 12 months for longer-life products. 	<p>Alcoholic beverage industry Retailer</p>	<p>effect and to also allow alignment with other proposed labelling changes. See sections 3.3.1.3 and 4.1.</p>
<p>Subparagraph 1.2.8–6(1)(d)(iv) requires the subject of any nutrition content claims to be listed in the NIP. So for foods making “no added sugar(s)” claims, is a NIP entry for “Added sugars” 0 g required? This is the case for “Gluten Free” claims.</p>	<p>Government</p>	<p>The requirements set by this Code provision in relation to nutrient declarations for claims requiring nutrition information remain unchanged.</p>
<p>The ingredients in a compound ingredient are not required to be labelled if it makes up <5% of the final food. This could make enforcement challenging if the compound ingredient includes added sugars but they are not in the ingredient list.</p>	<p>Government</p>	<p>The requirements in meeting claim conditions for any permitted nutrition content claim applies including for compound ingredients e.g. sodium. If a food contains ‘added sugars’ from a compound ingredient then a ‘no added sugar(s)’ claim cannot be made and so this should not present an enforcement issue.</p>
<p>Developing and printing new packaging is a substantial cost to come out of a change to labelling requirements. Other costs include product reformulation, ingredient sourcing, additional staff time and training, managing general enquiries, and the development and</p>	<p>Industry</p>	<p>For this assessment, FSANZ has assumed the vast majority of products will remove their voluntary claims rather than reformulate their production as it represents the least costly option. If we were to assume a significant proportion of product will reformulate this would significantly increase the costs to industry. However, reformulation may potentially lead to direct health benefits to consumers in terms of lowering their sugar</p>

Issue	Raised by	FSANZ response
implementation of new company procedures and record keeping to demonstrate compliance.		consumption. This alternative set of assumptions is likely to further support the case for change in terms of achieving a net benefit.
Cost-benefit analyses of proposed regulatory changes must include costs of destroying labels.	Industry	As the transition time has been extended to four years it is assumed these costs will be minimal. It seems unlikely that many businesses would hold more than four years of packaging material.
Considers it is critical that the jurisdictions and food industry from a compliance perspective clearly understand the label requirements. Suggest for both P1062 and P1058, regulatory support of ingredient suppliers and food businesses will be required in their determination of added sugars accurately in product specifications. Note testing will be difficult for ingredient suppliers to confirm the source of sugar (types of sugars) as there is no test method for 'added sugars' per se'. Education and regulatory support services for ingredient suppliers as well as manufacturers will be essential.	Industry	<p>As noted above, FSANZ has changed the approach as proposed at CFS by removing the list of fruit products and instead applying disqualifying criteria based on the (total) sugar content of a food which will make implementation and enforcement simpler. See section 3.3.3.1.</p> <p>To assist implementation, FSANZ expects to inform consumers, public health professionals and the food industry about the changes in requirements for 'no added sugar(s)' claims and will engage with enforcement agencies to assist with any guidance, as required. See section 4.2.</p>
Regardless of regulatory outcome, education required to help consumers understand claims given they are sought out and utilised by 40–60% consumers and uncertainty re ingredients that are 'added sugars'.	Industry	As noted in section 4.2, FSANZ expects to inform consumers of changes to 'no added sugar(s)' and 'unsweetened' claims and will work with agencies responsible for educating consumers where appropriate.
Support FSANZ's conclusion that Option 2 represents the greatest net but the analysis does not adequately consider costs to public health. Costs to public health should be considered as cost to both the community and the government. The public health system comprises the most significant cost to government that is ever increasing with the growing burden of chronic disease in the community. Consequently, all cost benefit analyses should incorporate as a standard	Government	Noted. The costs of obesity and overweight provided include costs to public health.

Issue	Raised by	FSANZ response
<p>component, the cost burden of a proposal or standard to public health at both the community and government level.</p> <p>The median return on investment of public health interventions is an estimated 4.1 to 1 and cost-benefit ratio 8.3 in high income countries (Masters et al, 2017 - https://jech.bmj.com/content/71/8/827).</p>		
<p>Seek to clarify that Standard 2.9.5 would not be required to meet these conditions. It may be necessary to refer to sugar content based on a special medical purpose of the product. The conditions should not prevent the sale of these lifesaving products. Many of these share labels with overseas markets due to the small population that require them.</p>	Industry	<p>The scope of P1062 is limited to definition and clarification of added sugars for the purposes of making claims and not to whether such claims should be permitted per se. Section 2.9.5–3 (Application of other standards) in Standard 2.9.5 – Foods for Special Medical Purposes is not in scope of P1062.</p>

Table 2: FSANZ response to comments received from the WTO notification

Issue	Raised by	FSANZ response
<p>Strongly support the Australian Beverages Council Limited (ABCL) submission. Do not support restrictions on claims for the addition of purees, powders, pastes, etc, to juice.</p> <p>Consumers understand 100% juice contains only intrinsic fruit sugars; and no further sugar added during manufacturing. Adding an intrinsic fruit sugar without the addition of actual sugar in manufacturing, only confuses the consumer.</p> <p>It is incongruous fruit drink without added sugar (essentially a diluted fruit juice) cannot make a 'no added sugar' claim. Consumers cannot make an informed decision, and will likely be further confused.</p>	<p>IFU International Fruit and Vegetable Juice Association</p>	<p>Based on consumer evidence that added sugars are commonly understood by consumers to be about sugar that is added during manufacturing or food preparation, rather than being inherent or naturally occurring in the food, FSANZ has maintained the approach of not permitting claims when 'added sugar' as defined is added to food.</p> <p>However as consumer evidence also shows that 'no added sugar(s)' claims can increase how healthy consumers perceive food products to be and can influence purchasing decisions, FSANZ has applied disqualifying criteria based on the (total) sugar content to support consumers make informed choices and reduce the risk of consumers being misled in regard to naturally occurring sugar in fruit products. See section 3.3.3.1 of the approval report.</p> <p>Although some foods with naturally occurring sugars above the thresholds will not be permitted to make the claim, they are not required to be identified as 'added sugars' on the label. The declaration of added sugars in the NIP will be considered under P1058. Consumers will still be able to identify the ingredients of the food from the list of ingredients, and other claims about the food will still be permitted (e.g. contains 100% fruit).</p> <p>As noted above, FSANZ has changed the approach as proposed at CFS by removing the list of fruit products and instead applying disqualifying criteria based on the (total) sugar content of a food. This approach will allow most fruit drinks, vegetable juices and other non-alcoholic beverages (that do not contain 'added sugar') to make a 'no added sugar(s)' claim. See section 3.3.3.1.</p>

Issue	Raised by	FSANZ response
<p>Support the Australian Beverages Council Limited (ABCL) submission including:</p> <ul style="list-style-type: none"> • Allowing a blend of single strength fruit products such as fruit puree + fruit juice to make a 'no added sugar' claim • Creating a distinction between fruit drinks that are (i) juice + water and those that have (ii) juice + water + added sugar • Allowing fruit drinks without added sugar to make a no added sugar claim • Exempting concentrated fruit products when reconstituted with water to single strength from being considered to have 'added sugar' • Excluding low energy sugars from 'added sugars' given their low energy value and how the body processes low energy sugars • Separating honey, malt, malt extracts, concentrated fruit juice and deionized fruit juice from sugars which are defined as 'sugar', as opposed to sugars from 'products that contain sugar'. <p>To facilitate industry's compliance and prevent unnecessary trade barriers, we recommend developing these two proposals, P1062 and P1058, in parallel.</p>	<p>International Council of Beverages Associations (ICBA)</p>	<p>As noted above, based on consumer evidence that 'no added sugar(s)' claims can increase how healthy consumers perceive food products to be and can influence purchasing decisions, FSANZ has changed the approach as proposed at CFS. The list of fruit products has been removed from the claim conditions and replaced with disqualifying criteria based on the (total) sugar content to support consumers make informed choices and reduce the risk of consumers being misled in regard to naturally occurring sugar in fruit products. This approach will allow most fruit drinks, vegetable juices and other non-alcoholic beverages (that do not contain 'added sugar') to make a 'no added sugar(s) claim. See section 3.3.3.1 of the approval report. Also an exemption has been applied to the addition of concentrated or deionised fruit and vegetable juices to certain non-alcoholic beverages including juice blend, fruit and vegetable juices and drinks. See section 3.3.2.1.</p> <p>The Australian and New Zealand dietary guidelines recommend limiting added sugars intake because of the energy contribution from sugars to the diet and because sugars contribute to tooth decay. Low energy sugars may vary in their energy content, risk of contributing to dental decay and metabolic properties (see section 3.3.2.2). FSANZ considers the available information and evidence about low energy sugars should be considered on a case-by-case basis.</p> <p>The scope of P1062 is limited to defining and clarifying added sugars for the purposes of making 'no added sugar(s)' claims. However, in recognition of the link between P1062 and P1058, FSANZ expects to review the changes made by P1062 in its assessment and decisions relating to P1058 to ensure regulatory coherence. See section 3.3.1.3.</p>

Attachment A – Approved draft variation to the *Australia New Zealand Food Standards Code*



Food Standards (Proposal P1062 – Defining added sugars for claims) Variation

The Board of Food Standards Australia New Zealand gives notice of the making of this variation under section 92 of the *Food Standards Australia New Zealand Act 1991*. The variation commences on the date specified in clause 3 of this variation.

Dated [To be completed by Delegate]

[Insert Delegate's details]

Delegate of the Board of Food Standards Australia New Zealand

Note:

This variation will be published in the Commonwealth of Australia Gazette No. FSC **XX on XX Month 20XX**. This means that this date is the gazettal date for the purposes of clause 3 of the variation.

1 Name

This instrument is the *Food Standards (Proposal P1062 – Defining added sugars for claims) Variation*.

2 Variation to a standard in the *Australia New Zealand Food Standards Code*

The Schedule varies a Standard in the *Australia New Zealand Food Standards Code*.

3 Commencement

The variation commences on the date of gazettal.

4 Effect of the variations made by this instrument

- (1) Section 1.1.1—9 of Standard 1.1.1 does not apply to the variations made by this instrument.
- (2) During the transition period, a food product may be sold if the product complies with one of the following:
 - (a) the Code as in force without the variations made by this instrument; or
 - (b) the Code as amended by the variations made by this instrument.
- (3) A food product that was packaged and labelled before the end of the transition period may be sold during the post-transition period if the product complies with one of the following:
 - (a) the Code as in force without the variations made by this instrument; or
 - (b) the Code as amended by the variations made by this instrument.
- (4) For the purposes of this clause:
 - (a) **transition period** means the period commencing on the variation's date of commencement and ending 48 months after the date of commencement; and
 - (b) **post-transition period** means the 24 month period commencing on the day after the transition period ends.

Schedule

Schedule 4 Nutrition, health and related claims

[1] Table to section S4—3 (table entry dealing with “Sugar or sugars”)

Repeal the entry, substitute:

Sugar or sugars	% Free	The food meets the conditions for a nutrition content claim about low sugar.
	Low	The food contains no more sugars than: (a) 2.5 g/100 mL for liquid food; or (b) 5 g/100 g for solid food.
	Reduced or Light/Lite	The food contains at least 25% less sugars than in the same amount of *reference food.
	No added	(a) The food for sale is not an added sugar. (b) The food for sale does not contain: (i) an added sugar as an added ingredient; and (ii) more sugars than:

- (A) 10 g/100 g for solid food; or
 - (B) 7.5 g/100 mL for liquid food.
- (c) The food for sale has not had the concentration of hexose monosaccharides and disaccharides in that food increased by hydrolysis of carbohydrates during the production of that food.
- (d) Condition (c) does not apply if the concentration of hexose monosaccharides and disaccharides in that food is not > 1.5%.
- (e) For the purposes of conditions (a) and (b), an **added sugar** means any of the following derived from any source:
- (i) hexose monosaccharides and disaccharides;
 - (ii) low energy hexose monosaccharide D-tagatose;
 - (iii) starch hydrolysate;
 - (iv) glucose syrup;
 - (v) maltodextrin and similar products;
 - (vi) a product derived at a sugar refinery (including brown sugar, molasses, raw sugar, golden syrup, treacle);
 - (vii) icing sugar;
 - (viii) invert sugar;
 - (ix) sugar and sugar syrup derived from plants;
 - (x) honey;
 - (xi) malt;
 - (xii) malt extracts;
 - (xiii) any of the following unless the food for sale is a prescribed beverage:
 - (A) concentrated fruit juice;
 - (B) concentrated vegetable juice;
 - (C) deionised fruit juice;
 - (D) deionised vegetable juice.

- (f) For the purposes of condition (b), an **ingredient** includes an ingredient of a *compound ingredient.
- (g) For the purposes of condition (e), a **prescribed beverage** means any of the following:
 - (i) a brewed soft drink;
 - (ii) a formulated beverage;
 - (iii) a juice blend;
 - (iv) a fruit drink;
 - (v) a fruit juice;
 - (vi) a vegetable juice;
 - (vii) a water-based beverage.

- Unsweetened
- (a) The food meets the conditions for a nutrition content claim about no added sugar(s).
 - (b) The food does not contain: intense sweeteners; sorbitol; mannitol; glycerol; xylitol; isomalt; maltitol; maltitol syrup; erythritol; or lactitol.
 - (c) The food does not contain, as an ingredient or as an ingredient of a *compound ingredient, a monosaccharide or disaccharide listed in the table to subsection S11—2(3).

Attachment B – Explanatory Statement

EXPLANATORY STATEMENT

Food Standards Australia New Zealand Act 1991

Food Standards (Proposal P1062 – Defining added sugars for claims) Variation

1. Authority

Section 13 of the *Food Standards Australia New Zealand Act 1991* (the FSANZ Act) provides that the functions of Food Standards Australia New Zealand (the Authority) include the development of standards and variations of standards for inclusion in the *Australia New Zealand Food Standards Code* (the Code).

Division 2 of Part 3 of the FSANZ Act specifies that the Authority may prepare a proposal for the development or variation of food regulatory measures, including standards. This Division also stipulates the procedure for considering a proposal for the development or variation of food regulatory measures.

The Authority prepared Proposal P1062 to consider amending the Code to define and clarify added sugars for the purposes of making claims. The Authority considered the Proposal in accordance with Division 2 of Part 3 and has prepared a draft variation - the *Food Standards (Proposal P1062 – Defining added sugars for claims) Variation*.

Following consideration by the Food Ministers' Meeting (FMM), section 92 of the FSANZ Act stipulates that the Authority must publish a notice about the draft variation.

2. Variation is a legislative instrument

The approved draft variation is a legislative instrument for the purposes of the *Legislation Act 2003* (see section 94 of the FSANZ Act) and is publicly available on the Federal Register of Legislation (www.legislation.gov.au).

This instrument is not subject to the disallowance or sunset provisions of the *Legislation Act 2003*. Subsections 44(1) and 54(1) of that Act provide that a legislative instrument is not disallowable or subject to sunset if the enabling legislation for the instrument (in this case, the FSANZ Act): (a) facilitates the establishment or operation of an intergovernmental scheme involving the Commonwealth and one or more States; and (b) authorises the instrument to be made for the purposes of the scheme. Regulation 11 of the *Legislation (Exemptions and other Matters) Regulation 2015* also exempts from sunset legislative instruments a primary purpose of which is to give effect to an international obligation of Australia.

The FSANZ Act gives effect to an intergovernmental agreement (the Food Regulation Agreement) and facilitates the establishment or operation of an intergovernmental scheme (national uniform food regulation). That Act also gives effect to Australia's obligations under an international agreement between Australia and New Zealand. For these purposes, the Act establishes the Authority to develop food standards for consideration and endorsement by the FMM. The FMM is established under the Food Regulation Agreement and the international agreement between Australia and New Zealand, and consists of New Zealand, Commonwealth and State/Territory members. If endorsed by the FMM, the food standards on gazettal and registration are incorporated into and become part of Commonwealth, State

and Territory and New Zealand food laws. These standards or instruments are then administered, applied and enforced by these jurisdictions' regulators as part of those food laws.

3. Purpose

The Authority has approved a draft variation to amend Schedule 4 of the Code to define and clarify what constitutes added sugars for the purposes of making voluntary nutrition content claims about added sugars.

4. Documents incorporated by reference

The approved draft variation does not incorporate any documents by reference.

5. Consultation

In accordance with the procedure in Division 2 of Part 3 of the FSANZ Act, the Authority's consideration of Proposal P1062 included one round of public consultation following an assessment and the preparation of a draft Standard and associated report. Submissions were called for on 11 September 2023 for a 4-week consultation period.

Impact analysis requirements applying to FSANZ were changed in April 2023²⁵. As a result, undertaking a Regulation Impact Statement (RIS) in addition to the assessment required under the FSANZ Act is no longer mandated. FSANZ has undertaken assessment in accordance with the FSANZ Act to consider the regulatory impacts and costs and benefits in line with RIS guidance.

6. Statement of compatibility with human rights

This instrument is exempt from the requirements for a statement of compatibility with human rights as it is a non-disallowable instrument under section 44 of the *Legislation Act 2003*.

7. Variation

Clause 1 provides that the name of the approved draft variation is the *Food Standards (Proposal P1062 – Defining added sugars for claims) Variation*.

Clause 2 provides that the Code is amended by the Schedule to the approved draft variation.

Clause 3 provides that the approved draft variation will commence on the date of gazettal of the instrument.

Clause 4 provides a transitional arrangement.

Subclause 4(1) provides that the stock-in-trade exemption provided by section 1.1.1—9 of Standard 1.1.1 will not apply to any of the amendments made by the approved draft variation.

Subclause 4(2) and paragraph 4(4)(a) provide an initial transitional arrangement where during a four year transition period commencing on the instrument's date of gazettal, a food product may be sold if the food product complies with either the Code as in force without the amendments made by the instrument; or the Code as amended by the instrument.

²⁵ For more information, refer to the Regulatory Impact Analysis Guide for Ministers' Meetings and National Standard Setting Bodies (June 2023).

Subclause 4(2) and paragraph 4(4)(b) provide a subsequent transitional arrangement where during a post-transition two year period commencing on the day after the initial transition period ends, a food product that was packaged and labelled before the end of initial four year transition period, may be sold if the product complies with either the Code as in force without the amendments made by the instrument; or the Code as amended by the instrument.

8. Schedule

The Schedule of the approved draft variation amends Schedule 4 of the Code.

Item [1] of the Schedule amends the table to section S4—3 of Schedule 4 of the Code. It replaces the entry in that table dealing with the property of food “Sugar or sugars” with a new entry as follows.

The new entry restates the current entries in column 3 of the table for the specific descriptors ‘% Free’, ‘Low’ and “Reduced or Light/Lite”, and the current conditions listed in column 4 for the use of each of those descriptors.

‘No added sugar or sugars’

The new entry sets new conditions in column 4 of the table for the use of the specific descriptor ‘No added’. The new conditions are as follows.

Condition (a)

Condition (a) is that the food for sale is not an added sugar. Condition (e) defines what is an added sugar for the purposes of conditions (a) and (b).

Condition (b)

Condition (b) provides that a ‘no added sugar(s)’ claim is not permitted to be displayed on a food for sale that contains an added sugar (as defined in condition (e)) as an added ingredient and that contains more sugars than 10 g/100 g for solid food or 7.5 g/100 mL for liquid food.

Condition (c)

Condition (c) provides that a ‘no added sugar(s)’ claim is not permitted to be displayed on a food for sale in which the concentration of hexose monosaccharides and disaccharides has been increased by hydrolysis of carbohydrates during food production.

Condition (d)

Condition (d) provides an exemption to condition (c). It provides that condition (c) does not apply to a food for sale in which: the concentration of hexose monosaccharides and disaccharides was increased by hydrolysis of carbohydrates during that food’s production; and the concentration of hexose monosaccharides and disaccharides in that food is not > 1.5%. The exemption means that condition (c) does not prevent a ‘no added sugar(s)’ claim from being displayed on that food for sale.

Condition (e)

Condition (e) states that, for the purposes of conditions (a) and (b), the term *added sugar* means any of the products listed below, derived from any source:

- (i) hexose monosaccharides and disaccharides (for example, dextrose, fructose, sucrose, lactose, glucose, galactose, maltose, trehalose);
- (ii) low energy hexose monosaccharide D-tagatose;
- (iii) starch hydrolysate;
- (iv) glucose syrup;
- (v) maltodextrin and similar products (for example, dextrans);
- (vi) a product derived at a sugar refinery (including brown sugar, molasses, raw sugar, golden syrup, treacle) (other examples of a product derived at a sugar refinery are cane sugar, beet sugar, white sugar, granulated sugar);
- (vii) icing sugar;
- (viii) invert sugar;
- (ix) sugar and sugar syrup derived from plants (for example, high fructose corn syrup, tapioca syrup, maple syrup, rice syrup, rice malt syrup, sorghum syrup, coconut sugar or syrup, palm sugar or syrup, agave syrup);
- (x) honey;
- (xi) malt;
- (xii) malt extracts;
- (xiii) any of the following unless the food for sale is a *prescribed beverage* (as defined in condition (g)): concentrated fruit juice; concentrated vegetable juice; deionised fruit juice; and deionised vegetable juice.

Condition (e)(xiii) provides that, if the food for sale is a prescribed beverage (as defined in condition (g)) and contains concentrated fruit juice, concentrated vegetable juice, deionised fruit juice or deionised vegetable juice, then that concentrated fruit juice, concentrated vegetable juice, deionised fruit juice or deionised vegetable juice will not be an 'added sugar' for the purposes of making a 'no added sugar(s)' claim. This will mean that, if that food for sale does not contain an added sugar listed in conditions (e)(i) to (xii), it will be a food that does not contain an 'added sugar' for the purposes of condition (b)(i). As such, that food for sale will be permitted to display a 'no added sugar(s)' claim provided that it complies with the maximum sugars content requirement set by condition (b)(ii).

Condition (f)

Condition (f) provides that the reference in condition (b) to an ingredient includes an ingredient of a compound ingredient. Subsection 1.1.2—2(3) of the Code provides that an ingredient of a food is a compound ingredient if that ingredient is itself made from two or more ingredients.

Condition (f) will mean that, if a food for sale contains an added sugar (as defined by condition (e)) as an ingredient of an added compound ingredient in that food, that food for sale is not permitted to display a 'no added sugar(s)' claim. For example, a food for sale that contains jam (which contains added sugar as an ingredient) as an added compound ingredient will not be permitted to display a 'no added sugar(s)' claim.

Condition (g)

Condition (g) states that, for the purpose of conditions (e)(xiii), the term *prescribed beverage* means any of the following products:

- (i) a brewed soft drink;
- (ii) a formulated beverage;
- (iii) a juice blend;
- (iv) a fruit drink;
- (v) a fruit juice;
- (vi) a vegetable juice;
- (vii) a water-based beverage.

Section 1.1.2—3 of the Code provides a definition for the following terms: brewed soft drink; formulated beverage; juice blend; fruit drink; fruit juice; and vegetable juice. A water-based beverage is referred to as a non-alcoholic beverage in Standard 2.6.2 of the Code.

'Unsweetened'

The new entry restates the entry in column 3 of the table for the specific descriptor 'Unsweetened', and the current condition (a) listed in column 4 for the use of that descriptor.

The new entry in effect amends condition (b) and adds a new condition (c) in column 4 of the table for the making of 'Unsweetened' claims.

Condition (b)

The new entry amends condition (b) to provide that an 'unsweetened' claim is not permitted to be displayed on a food for sale that contains erythritol. The amended condition provides that an 'unsweetened' claim is not permitted to be displayed on a food that contains: intense sweeteners; sorbitol; mannitol; glycerol; xylitol; isomalt; maltitol; maltitol syrup; erythritol; or lactitol.

Condition (c)

The new entry imposes new condition (c) for the use of the specific descriptor 'Unsweetened' in relation to the property of food 'Sugar or sugars'.

New condition (c) provides that an 'unsweetened' claim cannot be made in relation to a food for sale that contains, as an ingredient or as an ingredient of a compound ingredient, a monosaccharide or disaccharide listed in the table to subsection S11—2(3) of the Code.

Subsection 1.1.2—2(3) of the Code provides that an ingredient of a food is a compound ingredient if that ingredient is itself made from two or more ingredients.

The table to subsection S11—2(3) of the Code lists certain substances and their energy factors for the purposes of Standard 1.2.8. New condition (c) will mean in effect that a food for sale containing low energy sugars (monosaccharides or disaccharides) which are listed in the table to S11—2(3) will not be permitted to make an 'unsweetened claim'. At present, D-tagatose is the only low-energy sugar listed in that table.

Attachment C – Draft variation to the *Australia New Zealand Food Standards Code* (call for submissions)



Food Standards (Proposal P1062 – Defining added sugars for claims) Variation

The Board of Food Standards Australia New Zealand gives notice of the making of this variation under section 92 of the *Food Standards Australia New Zealand Act 1991*. The variation commences on the date specified in clause 3 of this variation.

Dated [To be completed by Delegate]

[Insert Delegate's details]

Delegate of the Board of Food Standards Australia New Zealand

Note:

This variation will be published in the Commonwealth of Australia Gazette No. FSC **XX on XX Month 20XX**. This means that this date is the gazettal date for the purposes of clause 3 of the variation.

1 Name

This instrument is the *Food Standards (Proposal P1062 – Defining added sugars for claims) Variation*.

2 Variation to a standard in the *Australia New Zealand Food Standards Code*

The Schedule varies a Standard in the *Australia New Zealand Food Standards Code*.

3 Commencement

The variation commences on the date of gazettal.

4 Effect of the variations made by this instrument

- (1) Section 1.1.1—9 of Standard 1.1.1 does not apply to the variations made by this instrument.
- (2) During the transition period, a food product may be sold if the product complies with one of the following:
 - (a) the Code as in force without the variations made by this instrument; or
 - (b) the Code as amended by the variations made by this instrument.
- (3) For the purposes of this clause, the **transition period** means the period commencing on the variation's date of commencement and ending 24 months after the date of commencement.

Schedule

Schedule 4 Nutrition, health and related claims

[1] Table to section S4—3 (table entry dealing with “Sugar or sugars”)

Repeal the entry, substitute:

Sugar or sugars	% Free	The food meets the conditions for a nutrition content claim about low sugar.
	Low	The food contains no more sugars than: <ol style="list-style-type: none">(a) 2.5 g/100 mL for liquid food; or(b) 5 g/100 g for solid food.
	Reduced or Light/Lite	The food contains at least 25% less sugars than in the same amount of *reference food.
	No added	<ol style="list-style-type: none">(d) The food for sale does not contain any of the following as an added ingredient:<ol style="list-style-type: none">(i) added sugars;(ii) dried fruit other than whole, cut or chopped dried fruit;(iii) fruit juice (other than concentrated fruit juice), unless the food for sale is canned fruit or frozen fruit;(iv) fruit juice powder;(v) fruit powder;(vi) fruit pulp;(vii) fruit purée;(viii) concentrated fruit purée;(ix) a blend or combination of any two or more ingredients listed above.

Example:

A food for sale that contains a blend of fruit purée and fruit juice as an ingredient added during production cannot be the subject of a claim about no added sugar.

- (e) The food for sale is not a blend or combination of any two or more ingredients listed in sub-paragraphs (i) to (viii) of condition (a).

Example:

A food for sale that is a blend of concentrated fruit juice and minced dried fruit cannot be the subject of a claim about no added sugar.

- (c) For the purposes of condition (a) and (e), **added sugars** means any of the following derived from any source:
- (i) hexose monosaccharides and disaccharides;
 - (ii) starch hydrolysate;
 - (iii) glucose syrup, maltodextrin and similar products;
 - (iv) a product derived at a sugar refinery (including brown sugar, molasses, raw sugar, golden syrup, treacle);
 - (v) icing sugar;
 - (vi) invert sugar;
 - (vii) sugar and sugar syrup derived from plants
 - (viii) honey;
 - (ix) malt;
 - (x) malt extracts;
 - (xi) concentrated fruit juice, unless the food for sale is fruit juice;
 - (xii) deionised fruit juice.
- (d) For the purposes of conditions (a), (b) and (e), an **ingredient** includes an ingredient of a *compound ingredient.
- (e) Condition (a) does not apply to a food for sale that:
- (i) is one of the following products:
 - (A) added sugars;
 - (B) dried fruit;
 - (C) fruit juice;
 - (D) fruit juice powder;
 - (E) fruit powder;
 - (F) fruit pulp;
 - (G) fruit purée;

- (H) concentrated fruit purée; and
 - (ii) does not contain as an added ingredient any other product listed in sub-paragraph (i).
 - (f) Condition (a) does not apply to lemon or lime fruit (including when dried or in the form of a juice, juice powder, powder, pulp, purée, or concentrated purée).
 - (g) The food for sale has not had the concentration of hexose monosaccharides and disaccharides in that food increased by hydrolysis of carbohydrates during the production of that food.
 - (h) Condition (g) does not apply if:
 - (i) the food for sale is a cereal—based plant milk manufactured using hydrolysis of carbohydrates; and
 - (ii) the concentration of hexose monosaccharides and disaccharides in that food is not > 1.5%.
 - (i) Any of the following is not **fruit** for the purposes of conditions (a) (c) and (e): legumes; fungi; herbs; nuts, spices; seeds.
- Unsweetened
- (a) The food meets the conditions for a nutrition content claim about no added sugar.
 - (b) The food contains no intense sweeteners, sorbitol, mannitol, glycerol, xylitol, isomalt, maltitol syrup or lactitol.
 - (f) The food does not contain, as an ingredient or as an ingredient of a *compound ingredient, a monosaccharide or disaccharide listed in the table to subsection S11—2(3).

Attachment D – International ‘no added sugar’ and ‘unsweetened’ claim conditions

Regulation/Country	Claim conditions	Additional information
<p>Codex Guidelines for use of Nutrition and Health Claims CAC/GL 23-1997</p>	<p>7.1 Non-Addition of Sugars</p> <p>Claims regarding the non-addition of sugars to a food may be made provided the following conditions are met.</p> <p>(a) No sugars of any type have been added to the food (Examples: sucrose, glucose, honey, molasses, corn syrup, etc.);</p> <p>(b) The food contains no ingredients that contain sugars as an ingredient (Examples: jams, jellies, sweetened chocolate, sweetened fruit pieces, etc.);</p> <p>(c) The food contains no ingredients containing sugars that substitute for added sugars (Examples: non-reconstituted concentrated fruit juice, dried fruit paste, etc.); and</p> <p>(d) The sugars content of the food itself has not been increased above the amount contributed by the ingredients by some other means (Example: the use of enzymes to hydrolyse starches to release sugars).</p>	<p>2.1.3 Non-addition claim means any claim that an ingredient has not been added to a food, either directly or indirectly. The ingredient is one whose presence or addition is permitted in the food and which consumers would normally expect to find in the food.</p>
<p>Regulation (EC) No 1924/2006 of the European Parliament and of the Council of 20</p>	<p>WITH NO ADDED SUGAR</p> <p>A claim stating that sugars have not been added to a food, and any claim likely to have the same meaning for the consumer, may</p>	<p>UK Guidance to EC Regulation Nutrition and health claims: guidance to compliance with Regulation (EC) 1924/2006 Updated 10 November 2021</p>

Regulation/Country	Claim conditions	Additional information
December 2006 on nutrition and health claims made on foods	only be made where the product does not contain any added mono- or disaccharides or any other food used for its sweetening properties. If sugars are naturally present in the food, the following indication should also appear on the label: 'CONTAINS NATURALLY OCCURRING SUGARS'.	<p>Q70. The conditions for "no added sugar" claims includes "...or any other food used for its sweetening properties". What does this mean?</p> <p>This will have to be looked at on a case-by-case basis and will depend on the nature of the product, why ingredients are used and how it is labelled. The name of the product is likely to indicate why the other food is present – as a defining ingredient or as a sweetener. For example, in a cranberry juice drink, the use of concentrated grape juice is usually to sweeten the product and is not included in the name; whereas in a mango and apple juice drink, the presence of apple juice is indicated in the name and is not added to sweeten the product (the sweetening effect is likely to be negligible with sweet mango juice).</p> <p>Q71. How much sugar has to be present to trigger the requirement to state "CONTAINS NATURALLY OCCURRING SUGARS" on a product making a "no added sugar" claim?</p> <p>The Regulation does not specifically mention how much sugar should be present to trigger the use of this statement. The Regulation does however, define any product with no more than 0.5g of sugar per 100ml or per 100g as "sugar free". Taking this into consideration it is our view that only products that contain more than 0.5g of naturally present sugar per 100ml or per 100g should make the statement "CONTAINS NATURALLY OCCURRING SUGARS".</p>
USA Title 21--Food and Drugs Chapter I--Food and Drug Administration Department of	The terms " no added sugar ," " without added sugar ," or " no sugar added " may be used only if: (i) No amount of sugars, as defined in § 101.9(c)(6)(ii), or any other ingredient that contains sugars that functionally substitute for	Sugars are defined in § 101.9(c)(6)(ii) as follows: Total sugars shall be defined as the sum of all free mono- and disaccharides (such as glucose, fructose, lactose, and sucrose).

Regulation/Country	Claim conditions	Additional information
<p>Health and Human Services</p> <p>Subchapter B - Food for Human Consumption</p> <p>Part 101 -- Food Labeling</p>	<p>added sugars is added during processing or packaging; and</p> <p>(ii) The product does not contain an ingredient containing added sugars such as jam, jelly, or concentrated fruit juice; and</p> <p>(iii) The sugars content has not been increased above the amount present in the ingredients by some means such as the use of enzymes, except where the intended functional effect of the process is not to increase the sugars content of a food, and a functionally insignificant increase in sugars results; and</p> <p>(iv) The food that it resembles and for which it substitutes normally contains added sugars; and</p> <p>(v) The product bears a statement that the food is not "low calorie" or "calorie reduced" (unless the food meets the requirements for a "low" or "reduced calorie" food) and that directs consumers' attention to the nutrition panel for further information on sugar and calorie content.</p>	
<p>Canada</p> <p>Nutrition labelling: Table of permitted nutrient content statements and claims</p>	<p>"no sugar added", "no added sugar" or "without added sugar"</p> <p>1) The food contains no added sugars-based ingredients or ingredients containing sugars-based ingredients.</p>	<p>Sugars-based ingredients can be one of the following:</p> <p>Ingredient that is a monosaccharide or disaccharide or a combination of these</p> <p>Examples sucrose, lactose and maltose, glucose-fructose, cane sugar, sucrose, beet sugar, and lactose. Refer to Annex 1A: Examples of sugars-based ingredients that are monosaccharide,</p>

Regulation/Country	Claim conditions	Additional information
	<p>(2) The sugars content is not increased through some other means except if the functional effect is not to increase the sugars content of the food.</p> <p>(3) The similar reference food</p> <p style="padding-left: 40px;">(a) contains an added sugars-based ingredient or an ingredient containing a sugars-based ingredient; and</p> <p style="padding-left: 40px;">(b) does not meet the conditions set out in column 2 of item 37.1 for the subject "low in sugars" set out in column 1</p> <p><i>The conditions set out in column 2 of item 37.1 are as follows:</i></p> <p>The food contains</p> <p style="padding-left: 40px;">(a) 5 g or less of sugars per reference amount and serving of stated size and, if the reference amount is 30 g or 30 mL or less, per 50 g; or</p> <p style="padding-left: 40px;">(b) 5 g or less of sugars per 100 g if the food is a prepackaged meal.</p> <p><i>Claim is also not permitted for products that meet or exceed the thresholds for high-in sugars for a front-of-package nutrition symbol (see Attachment F).</i></p>	<p>disaccharide or a combination of these for a list of additional examples.</p> <p>Ingredient that is a sweetening agent</p> <p>Examples of sweetening agents include fancy molasses, maple syrup, brown sugar, agave syrup, refined sugar syrup, honey, and other syrup. Refer to Annex 1B: Examples of sugars-based ingredients that are sweetening agents for a list of additional examples.</p> <p>Ingredient that is a functional substitute for a sweetening agent</p> <p>With reference to any prepackaged products, a functional substitute for a sweetening agent means a food,</p> <ul style="list-style-type: none"> • that is not a sweetener or sweetening agent including any sugars, but • replaces a sweetening agent and has 1 or more functions of the sweetening agent including, sweetening, thickening, texturing or caramelizing [B.01.001(1), FDR] <p>Sweetening agents may also have other functions including, flavouring, preservation, browning/caramelization, and colouring.</p> <p>A "functional substitute for a sweetening agent" is generally not an obvious source of sugars in the food. For example, fruit juice concentrate may not be familiar to some as a source of sugars. Grouping of sugars-based ingredients may help consumers identify these hidden sources of sugars in their foods.</p> <p>List of sugars-based ingredients that are functional substitutes for sweetening agents</p> <ul style="list-style-type: none"> • Condensed milk or sweetened condensed milk • Decharacterized juice • Fruit juice (except lime/lemon juice)

Regulation/Country	Claim conditions	Additional information
	<p><i>These conditions also apply to "unsweetened" claim as the requirements for "no added sugars" are a condition of its use.</i></p>	<ul style="list-style-type: none"> • Fruit juice concentrate (except lime/lemon juice concentrate) • Fruit paste • Fruit purée • Fruit purée concentrate • Malted milk or malted milk powder • Maltodextrin (no fibre) • Nectar <p>Apart from this list, there are other ingredients containing sugars, which may have a function in the food in addition to sweetening. It is the responsibility of the manufacturer to be able to demonstrate that such an ingredient performs a function other than sweetening the food, otherwise it should be grouped. It is also permitted to include in the sugars grouping, any other ingredient containing sugars regardless of its purpose in the food.</p>
<p>Singapore</p> <p>A HANDBOOK ON NUTRITION LABELLING</p>	<p>No added sugar or Without added sugar</p> <ul style="list-style-type: none"> • no free sugars[#] or ingredients with added free sugar[#], honey, malt and malt extract, with the exception of sugar alcohols and sweetening substances[^], are added during processing. <p>Unsweetened</p> <ul style="list-style-type: none"> • no added free sugars[#] or ingredients with added free sugar[#], honey, malt, malt extract, sweetening substances[^] or sugars alcohols, are added during processing 	<p>[#]As per the WHO definition for free sugars, this includes all monosaccharides and disaccharides added to foods by the manufacturer, plus sugars naturally present in honey, syrups and fruit juices. This definition excludes lactose and galactose if naturally present in milk. Deionised fruit juice is also considered free sugar.</p> <p>[^]<i>Sweetening substances</i> - Non-nutritive or artificial sweeteners such as saccharin, aspartame, acesulfame-K and sucralose and steviol glycosides.</p>
<p>South Africa</p>	<p>(6) Claims regarding the non-addition of any mono- and disaccharides to a foodstuff such</p>	

Regulation/Country	Claim conditions	Additional information
<p>Proposed amendments to FOODSTUFFS, COSMETICS AND DISINFECTANTS ACT, 1972 (ACT No.54 OF 1972)</p> <p>REGULATIONS RELATING TO THE LABELLING AND ADVERTISING OF FOODSTUFFS</p>	<p>as no sugar or free sugar or “no sugar added” or “no added sugar” or other words with a similar meaning, may not be made for an end product foodstuff unless—</p> <ul style="list-style-type: none"> (a) the end product is a single ingredient agricultural product; (b) the end product is a fresh, single fruit juice or a single, fresh vegetable juice as defined by these or relevant regulations under the Agricultural Product Standards Act; (c) the end product is not a fruit or vegetable juice or concentrate thereof, which is blended with another fruit juice or concentrate thereof in order to comply with a certain sweetness (brix) requirement provided for in the relevant regulations under the Agricultural Product Standards Act; (d) (d) the foodstuff contains no compound ingredients of which any sugar is an ingoing ingredient or intrinsic sugar (such as but not limited to jams, jellies, sweet confectionary and chocolate, sweetened fruit pieces); (e) no sugars or source thereof have been added to the foodstuff, irrespective of the technological purpose thereof, (such as but not limited to sucrose, glucose, fructose, 	

Regulation/Country	Claim conditions	Additional information
	<p>lactose, honey, molasses, corn and other syrups, malt, isomaltulose, whey powder, milk solids) and irrespective of whether the added sugar or source is an intrinsic or an added sugar); or</p> <p>(f) the sugar content of the foodstuff itself has not been increased above the amount contributed by the ingredients, by some other means such as the use of enzymes to hydrolyse starches to release sugars.</p>	
<p>Brazil</p> <p>COLLEGIATE BOARD RESOLUTION - RDC NO. 429, OF OCTOBER 8, 2020</p> <p><i>Note: Information translated electronically from Portuguese</i></p>	<p>No added sugars:</p> <p>The food does not contain added sugars; and</p> <p>The food does not contain ingredients containing added sugars; and</p> <p>The food does not contain ingredients that naturally contain sugars and that are added to foods as sugar substitutes to provide sweet taste; and</p> <p>No means are used during processing, such as the use of enzymes, that can increase the sugar content in the final product.</p>	<p><i>Added sugars are defined as:</i> all monosaccharides and disaccharides added during the processing of the food, including the fractions of monosaccharides and disaccharides arising from the addition of the ingredients cane sugar, beet sugar, sugars from other sources, honey, molasses, rapadura, sugarcane juice, malt extract, sucrose, glucose, fructose, lactose, dextrose, invert sugar, syrups, maltodextrins, other hydrolyzed carbohydrates and ingredients with the addition of any the above ingredients, with the exception of polyols, added sugars consumed by fermentation or non-enzymatic browning and sugars naturally present in milks and dairy products and sugars naturally present in vegetables, including fruits, whole, pieces, powdered, dehydrated, pulps, purées, whole juices, reconstituted juices and concentrated juices;</p>

Attachment E – International ‘added’, ‘free’ and ‘liberated’ sugar definitions

Source of definition	Definition	Purpose/application of definition
WHO Guideline: Sugars intake for adults and children (2015)	<p>Free sugars include all monosaccharides and disaccharides added to foods by the manufacturer, cook, or consumer, and sugars naturally present in honey, syrups, fruit juices and fruit juice concentrates.</p>	<p>Makes recommendations on the intake of free sugars to reduce the risk of NCDs in adults and children. The recommendations are intended for use by policy-makers and programme managers to develop measures to decrease intake of free sugars, where necessary, through a range of public health interventions (among other uses).</p>
WHO/FAO joint report (2003): Diet, nutrition and the prevention of chronic diseases	<p>Free sugars refers to all monosaccharides and disaccharides added to foods by the manufacturer, cook or consumer, plus sugars naturally present in honey, syrups and fruit juices.</p> <p>NB: The same definition as was used in 2015 but without ‘fruit juice concentrates’.</p>	<p>The primary purpose was to examine and develop recommendations for diet and nutrition in the prevention of chronic diseases. The overall aim of the recommendations is to implement more effective and sustainable policies and strategies to deal with the increasing public health challenges related to diet and health.</p>
WHO European Region: Nutrient and Promotion Profile Model, Supporting appropriate promotion of food products for infants and young children 6-36 months in the WHO European Region	<p>Added sugar is defined as all monosaccharides and disaccharides added to foods and beverages by the manufacturer, cook or consumer during processing or preparation.</p> <p>Free sugars are defined as monosaccharides (such as glucose or fructose) and disaccharides (such as sucrose or table sugar) added to foods by the manufacturer, cook or consumer in addition to sugars naturally present in honey, syrups, fruit juices and fruit concentrates.</p> <p>Liberated sugars are defined as those that are released or “liberated” from within plant cell walls during processing such as heat-treatment, maceration or pureeing. Liberated sugars have the same function as free sugars in terms of contributing to the sweet taste of foods and the speed at which sugars are</p>	<p>The nutrient and promotion profile model aims to support policy changes for food products for infants and young children to ensure both high nutritional quality and appropriate marketing.</p>

Source of definition	Definition	Purpose/application of definition
	<p><i>absorbed into the blood stream. For example, fruit puree is particularly high in liberated sugar. Feeding fruit puree alone, or using it as an ingredient in other foods, means foods taste very sweet and blood sugar levels can rise rapidly.</i></p>	
<p>USFDA (2016)</p>	<p>Added sugars are either added during the processing of foods, or are packaged as such, and include sugars (free, mono and disaccharides), sugars from syrups and honey, and sugars from concentrated fruit or vegetable juices that are in excess of what would be expected from the same volume of 100 percent fruit or vegetable juice of the same type, except that fruit or vegetable juice concentrated from 100 percent juices sold to consumers, fruit or vegetable juice concentrates used towards the total juice percentage label declaration under § 101.30 or for Brix standardization under § 102.33(g)(2) of this chapter, fruit juice concentrates which are used to formulate the fruit component of jellies, jams, or preserves in accordance with the standard of identities set forth in §§ 150.140 and 150.160 of this chapter, or the fruit component of fruit spreads shall not be labeled as added sugars.</p>	<p>Mandatory inclusion of 'added sugars' in Nutrition Facts label.</p> <p>The amount of added sugars is based on the finished product composition (including in foods where sugar content changes during manufacture).</p>
<p>Brazil (regulations published October 2020; come into force October 2022)</p>	<p>Added sugars: all monosaccharides and disaccharides added during food processing, including fractions of monosaccharides and disaccharides from the addition of the ingredients cane sugar, beet sugars, sugars from other sources, honey, molasses, rapadura, cane broth, malt extract, sucrose, glucose, fructose, lactose, dextrose, invert sugar, syrups, maltodextrins, other hydrolyzed carbohydrates and ingredients plus any of the previous ingredients, with the exception of polyols, added sugars consumed by fermentation or non-enzymatic darkening and sugars naturally present in milk and dairy products and sugars naturally present in vegetables, including fruits, whole, in pieces, powdered, dehydrated, in pulps, purées, whole juices, reconstituted juices and concentrated juices</p> <p>Note: Information translated electronically from Portuguese</p>	<p>Mandatory inclusion of added sugars in the nutrition information table.</p>

Source of definition	Definition	Purpose/application of definition
<p>Mexico (2020)</p> <p>Modification to the Mexican Official Standard NOM-051-SCFI/SSA1-2010 (Spanish)</p>	<p>Free sugars: Available monosaccharides and disaccharides added to foods and non-alcoholic beverages by the manufacturer, plus sugars that are naturally present in honey, syrups, and fruit or vegetable juices</p> <p>Added sugars: free sugars added to foods and non-alcoholic beverages during industrial processing.</p> <p>Note: Information translated electronically from Spanish</p>	<p>Nutritional declaration labelling of added sugars (in addition to total sugars); and Front of Pack warning labels ('excess sugars' label based on a limit of added free sugars to pre-packaged food).</p>
<p>Uruguay (2018)</p> <p>Decree No. 272/018</p> <p>(Manual for the application of the Decree - Spanish)</p>	<p>Added sugars: Refers to the added, during the process of elaboration, of:</p> <ul style="list-style-type: none"> a. sugars; b. polysaccharide hydrolysis sugars*; c. honey d. ingredients that contain added any of the previous components. <p>Sugars Includes all monosaccharides and disaccharides present in the food. Lactose and sugars naturally present in fruits and vegetables used as ingredients in food are excepted.</p> <p>(Note: Fruit juices, sweetened juices, juices concentrates and nectars are included).</p> <p>*e.g: glucose syrup, high glucose syrup fructose, glucose-fructose syrup, dextrose anhydrous or glucose anhydrous, dextrose monohydrate or glucose monohydrate, powdered fructose, invert sugar, among others.</p> <p>Note: Information translated electronically from Spanish</p>	<p>Front of Pack warning food label regulation for 'excess sugars' (and fat, saturated fat and sodium).</p> <p>Applies to packaged foods that in its preparation process, or any of its ingredients, sugars have been added and exceed the value established in the regulation.</p>
<p>Tolerable upper intake level for dietary sugars. EFSA Panel on Nutrition, Novel Foods and Food Allergens (NDA) (2022)</p>	<p>Added sugars: Mono- and disaccharides added to foods as ingredients during processing or preparation at home, and sugars eaten separately or added to foods at the table.</p> <p>Free Sugars: added sugars plus sugars naturally present in honey, syrups, fruit and vegetable juices and fruit juice concentrates</p>	<p>To provide scientific advice on a tolerable upper intake level (UL) or a safe level of intake for dietary sugars.</p> <p>A UL or a safe level of intake for total, added or free sugars could not be established. Based on available data, the intake of added and free sugars should be as low as possible in the context of a nutritionally adequate</p>

Source of definition	Definition	Purpose/application of definition
	Note: These definitions were further modified for the purpose of developing food composition databases for added and free sugars.	diet. This opinion can assist EU Member States in setting national goals/recommendations.
<p>Supporting evidence – informed policy work on added sugar.</p> <p>Report prepared for VicHealth by the George Institute (V2, April 2021)</p>	<p>Added sugars:</p> <ul style="list-style-type: none"> • <i>Sugars in whatever form and from whatever source (e.g., cane sugar, beet sugar, white sugar, brown sugar, granulated sugar, icing sugar, fruit sugar, invert sugar).</i> • <i>Monosaccharides and disaccharides isolated from their original food sources and added as an ingredient to foods or drinks (e.g., lactose – including lactose in whey powder, galactose, fructose).</i> • <i>All sugars naturally present in processed fruit and vegetables (blended, juices, pastes, purée, powdered, concentrates, nectars) when sugars are no longer in their natural cellular structure.</i> • <i>Concentrated fruit or vegetable juice or deionised fruit or vegetable juice.</i> • <i>Dried fruits.</i> • <i>Sugars naturally present in syrups (e.g., maple syrup, golden syrup, high-fructose corn syrup, glucose syrup, agave syrup), honeys, molasses, treacle, malt and malt extract, starch hydrolysate, maltodextrin and similar products.</i> <p>Excluded:</p> <ul style="list-style-type: none"> • <i>Lactose and galactose when naturally present in milk and dairy or dairy-based products.</i> • <i>All sugars naturally present in fresh and some processed (stewed, canned and frozen) fruit and vegetables (including beans) when sugars remain in their natural cellular structure (e.g. the intact fruit component (whole or pieces) of tinned fruit</i> 	<p>VicHealth commissioned The George Institute to conduct work to inform the development of a regulatory definition of added sugars for Australia and New Zealand.</p>

Source of definition	Definition	Purpose/application of definition
	<p>would not be added sugars, but any sugars added in the form of syrup to that product would be).</p> <ul style="list-style-type: none"> • All sugars naturally present in cereal grains including rice, pasta and flour regardless of processing (other than cereal based drinks). • All sugars naturally present in nuts and seeds regardless of processing. • Sugar substitutes that do not contains sugars, such as polyols (sorbitol) and other non-nutritive sweeteners* 	
<p>Public Health England (Swan et al. 2018)</p>	<p>Free sugars: all added sugars in any form; all sugars naturally present in fruit and vegetable juices, purées and pastes and similar products in which the structure has been broken down; all sugars in drinks (except for dairy-based drinks); and lactose and galactose added as ingredients. The sugars naturally present in milk and dairy products, fresh and most types of processed fruit and vegetables and in cereal grains, nuts and seeds are excluded from the definition.</p> <p>Added sugars encompasses all monosaccharides and disaccharides added to foods. This includes: all types of cane and beet sugar, including both white and brown; sugar from other sources such as coconut palm sugar; crystalline sucrose, invert sugar, dextrose and molasses; fructose, sucrose, glucose, lactose, hydrolysed lactose and galactose added as an ingredient; the sugars in honey, treacle, malt extract and all types of syrups including glucose syrup, glucose–fructose syrup, high-fructose corn syrup and rice malt syrup; sugars in all types of nectars (examples are coconut blossom nectar; date nectar, agave nectar); and the sugars in unsweetened fruit or vegetable juices, juice concentrates, fruit or vegetable purées, pastes or jam added as an ingredient.</p>	<p>Public Health England expanded the broad definition of ‘free sugars’ set by SACN (below) into a set of working principles for estimating the free sugars content of foods, in order to estimate intakes of free sugars in the National Diet and Nutrition Survey (NDNS).</p>
<p>Carbohydrates and Health. Scientific Advisory</p>	<p>Free sugars: All monosaccharides and disaccharides added to foods by the manufacturer, cook or consumer, plus sugars naturally present in honey, syrups and unsweetened fruit juices. Under this</p>	<p>To provide clarification of the relationship between dietary carbohydrates and health and to make public</p>

Source of definition	Definition	Purpose/application of definition
Committee on Nutrition (SACN), 2015	<i>definition, lactose naturally present in milk and milk products and sugars contained within the cellular structure of foods would be excluded.</i>	<p>health recommendations (in response to request from the Food Standards Agency and Department of Health). SACN recommended that a 'free sugars' definition be used in nutrition advice in place of 'non-milk extrinsic sugars'.</p>
Pan American Health Organisation (PAHO/WHO). Nutrient Profile Model (2016)	<p>Added sugars: <i>Free sugars added to foods and beverages during manufacturing or home preparation.</i></p> <p>Free sugars: <i>Monosaccharides and disaccharides added to foods and beverages by the manufacturer, cook, and/or consumer plus sugars that are naturally present in honey, syrups and juices.</i></p>	<p>To develop a nutrient profiling scheme for multiple applications, including regulation of marketing, front-of-package labelling, and fiscal policies related to foods and beverages with high energy content and poor nutritional value.</p>
EFSA NDA panel. Scientific Opinion on Dietary Reference Values for Carbohydrates and Dietary Fibre (2010)	<p>Added sugars: <i>Term used to describe sucrose, fructose, glucose, starch hydrolysates (glucose syrup, high-fructose syrup) and other isolated sugar preparations used as such or added during food preparation and manufacturing.</i></p>	<p>The opinion deals with the establishment of Dietary Reference Values for carbohydrates and dietary fibre.</p>

Attachment F – Summary of existing domestic and international sugars recommendations and thresholds

Source	Summary	Purpose
Australia and New Zealand		
Australian Dietary Guidelines – Educators Guide (page 49) ²⁶	Advice when reading labels indicates avoiding sugar completely is not necessary, but to try and avoid larger amounts of added sugars. If sugar content per 100 g is more than 15 g, check that sugar (or alternative names for added sugar) is not listed high on the ingredient list.	Dietary guidance
Nutrition Australia Factsheet ²⁷	Advice when reading labels indicates to look for milk, yoghurt, breakfast cereal (without dried fruit), sweet snack bars and biscuits containing less than 15 g sugar/100 g.	Dietary guidance
Australian Dental Association - understanding sugar ²⁸	Advice when reading labels indicates to look at the 100 g column, and to look for foods with 5 g or less sugar. Between 5 g and 10 g of sugar is considered okay, but if the product contains over 15 g of sugar per 100 g, it may be best to find a healthier alternative.	Dietary guidance
Cancer Council Victoria - exposing the hidden sugar in your diet ²⁹	Advice when reading labels indicates any foods with more than 15 g sugar per 100 g are definitely high in added sugar and should be limited. The best choices are foods with less than 5 g sugar per 100 g. Foods with 5–15 g sugar per 100 g are okay.	Dietary guidance
Diabetes New Zealand Diabetes and Healthy Food Choices pamphlet ³⁰	Advice when reading labels indicates: <ul style="list-style-type: none"> • to choose foods with less than 10 g sugar per 100 g. • low sugar breakfast cereals and yoghurts have less than 15 g sugar per 100 g. • to avoid drinks with more than 2.5 g carbohydrate per 100 g 	Dietary guidance
New Zealand Nutrition Foundation – Reading Food Labels ³¹	Advice when reading labels indicates to look for products with less than 10 g sugar per 100 g.	Dietary guidance

²⁶ [Australian dietary guideline documents](#)

²⁷ [Food label reading guide | Nutrition Australia](#)

²⁸ [Understanding sugar - Australian Dental Association \(teeth.org.au\)](#)

²⁹ [Exposing the hidden sugar in your diet - Cancer Council Victoria \(cancervic.org.au\)](#)

³⁰ [Diabetes New Zealand](#)

³¹ [Reading Food Labels - NZ Nutrition Foundation](#)

Source	Summary	Purpose
HealthInfo New Zealand ³²	The 'reading food labels' fact sheet indicates to choose foods with less than 10 g of sugar per 100 g. The 'how to cut down sugar' fact sheet indicates high-sugar foods contain more than 15 g of sugar per 100 g. Low-sugar foods contain less than 5 g per 100 g.	Dietary guidance
Healthify (X- Health Navigator) – Sugar – how to cut down ³³	Indicates a food that has 15 g or more of sugar per 100 g is considered high in sugar. While anything under 5 g of total sugar per 100 g is considered low.	Dietary guidance
The Australian New Zealand Food Standards Code ³⁴	Percentage daily intake (%DI) may be voluntarily provided in the Nutrition Information Panel. The %DI value is based on an average adult diet of 8,700 kJ. For total sugar, the reference value for calculating the %DI is 90 g. There is a compositional limit of ≤7.5 g/100 g total sugars set out in Standard 2.6.2 of the Code for Formulated Beverages.	Labelling
Health Star Rating System ³⁵	Baseline points start at >5 g total sugars for categories 1D, 2, 2D, 3 and 3D and >0.1 g for Category 1 products. Points are offset by FVNL content.	Labelling
Other		
World Health Organization Guideline: Sugar Intake for Adults and Children, 2015 ^{36,37}	Recommends reducing the intake of free sugars to less than 10% of total energy intake, with a further recommendation to limit free sugars intakes to 5%. 10% of total energy intake from free sugars is equivalent to 50 g (or about 12 level teaspoons) for a person of healthy body weight consuming about 2000 calories per day.	Dietary guidance
Dietary Guidelines for Americans ³⁸	Recommends people older than 2 years should keep sugars to less than 10% of their total daily calories. For example, if an adult consumes 2,000 calories a day, no more than 200	Dietary guidance

³² [HealthInfo Canterbury](#)

³³ [Sugar – how to cut down | Healthify](#)

³⁴ [Food Standards Code](#)

³⁵ [Health Star Rating - Applying the Health Star Ratings](#)

³⁶ [Guideline: sugars intake for adults and children \(who.int\)](#)

³⁷ [WHO Factsheet](#)

³⁸ [Dietary Guidelines for Americans](#)

Source	Summary	Purpose
	<p>calories should come from added sugars. Or, if toddlers consume 1,200 calories a day, no more than 120 calories should come from added sugars.</p> <p>Children under 2 years old should not eat or drink any added sugars.</p>	
National Health Service United Kingdom – Food labels ³⁹	Foods with more than 22.5 g of total sugars per 100 g are high in sugar, while foods with 5 g of total sugar or less per 100 g are low in sugar.	Dietary guidance
WHO: Regional Office for Europe nutrient and promotion profile model, 2023 ⁴⁰	<p>Foods are assigned to one of 22 categories with nutrition content information being crossed checked against set thresholds. Thresholds are based on WHO's nutritional recommendations. It involved converting the nutrient recommendations into reference intakes in grams for a diet of 2000 kcal/day and then calculating low, medium and high levels of nutrients as standard percentages of the reference intakes. As there is no WHO recommendation for total sugars, using a reference intake of 50 g/day free sugars were set at:</p> <ul style="list-style-type: none"> • low – 5% of reference intake (2.5 g per day) • medium – 25% reference intake (12.5 g per day) • high – 95% reference intake (47.5 g per day) 	Restricting marketing to children
United States Food and Drug Administration ⁴¹	Nutrition Facts table includes total sugars and added sugars, including the % DV for added sugars. 20% DV or more per serving is considered high (50 g reference), while 5% DV or less of a nutrient per serving is considered low.	Labelling
Health Canada ⁴²	<p>For sugars, the threshold for general pre-packaged foods is ≥ 15 grams total sugars per reference amount (50 g) and per serving of stated size, which is based on a DV of 15%.</p> <p>Higher thresholds based on 30% DV were introduced for pre-packaged meals (as these are consumed as a meal); and lower thresholds for foods with a small reference amount based on 10% DV.</p> <p>The FoP symbol for sugars would apply to pre-packaged foods containing free sugars, including fruit juice. This means that unsweetened fruits, vegetables and dairy products</p>	Labelling

³⁹ [Food labels - NHS \(www.nhs.uk\)](http://www.nhs.uk)

⁴⁰ [WHO Regional Office for Europe nutrient profile model: second edition](#)

⁴¹ [What's on the Nutrition Facts Label | FDA](#)

⁴² [Front-of-package nutrition labelling - Canada.ca](http://Canada.ca)

Source	Summary	Purpose												
	would not be required to carry a FoP sugars label. Other exemptions to the FoP symbol would include foods in small packages and packages of sugar (e.g. brown sugar).													
The UK Ofcom Nutrient Profiling Model ⁴³	Foods that contribute more than 30% for food and 15% for drinks of an adults recommended daily maximum intake are labelled as high. For foods, this includes products with a total sugars content >22.5 g/100 g. For drinks, this includes products with a total sugars content of 11.25 g/100 mL	Labelling												
Chile – warning labels for total sugar, sodium, saturated fat and calories	<p>Products will bear the label “Excess sugar” if the product’s sugar content is above the limits shown below. The limits are separated by solid and liquid foods and phased according to time from implementation as shown below.</p> <table border="1"> <thead> <tr> <th>Total sugars</th> <th>From the date of implementation (27 June 2016)</th> <th>24 months after implementation</th> <th>36 months after implementation</th> </tr> </thead> <tbody> <tr> <td>Solid Food g/100g</td> <td>22.5</td> <td>15</td> <td>10</td> </tr> <tr> <td>Liquid Food g/100mL</td> <td>6</td> <td>5</td> <td>5</td> </tr> </tbody> </table> <p>There are some exemptions to the FoP labelling requirement, including foods that are sold in bulk and Foods for Special Dietary Purposes (e.g. infant formula) (L. Rodríguez Osiac pers. com.⁴⁴).</p>	Total sugars	From the date of implementation (27 June 2016)	24 months after implementation	36 months after implementation	Solid Food g/100g	22.5	15	10	Liquid Food g/100mL	6	5	5	Labelling
Total sugars	From the date of implementation (27 June 2016)	24 months after implementation	36 months after implementation											
Solid Food g/100g	22.5	15	10											
Liquid Food g/100mL	6	5	5											
Mexico – front of pack warning labels ^{45 46}	<p>Front of Pack warning labels include ‘excess sugars’ label based if the product’s sugar content is 10% or more of the total calories. Will apply to all foods except ingredients, products aimed at children under 3 and fresh fruit and vegetables.</p> <p>Note: information sourced by google translation</p>	Labelling												

⁴³ [A guide to creating a front of pack \(FoP\) nutrition label for pre-packed products](#)

⁴⁴ Dra. Lorena Rodríguez Osiac, Head of Department of Nutrition and Food, Ministry of Health, Chile, personal communication 7 June 2017

⁴⁵ [Modification to the Mexican Official Standard NOM-051-SCFI/SSA1-2010](#)

⁴⁶ [Full article: Mexico Adopts Food Warning Labels. Why Now? \(tandfonline.com\)](#)

Source	Summary	Purpose
Uruguay Front of Pack warning labels ⁴⁷	<p>Front of Pack warning food label regulation for 'excess sugars' for packaged foods when its preparation process, or any of its ingredients, sugars have been added and exceed the value established in the regulation (20% of the total caloric value and 3 g/100 g).</p> <p>Note: information sourced by google translation</p>	Labelling
Nutri-score profiling tool	<p>Uses total sugar in the algorithm, with only whole and minimally processed fruits and vegetables eligible for positive fruit and vegetable points, with "ingredients such as concentrated fruit juice sugars that are added to foods to increase sweetness" ineligible.</p> <p>The point allocation for sugars was revised in 2022, using a point allocation scale aligned with the FIC regulation of 3.75% of the 90 g reference value, with up to 15 points.</p>	Labelling

⁴⁷ Decree No. 272/018 ([Manual for the application of the Decree](#) - Spanish)

Attachment G – Number of products above and below each total sugars threshold by category

Category	Type	n	Total sugar g/100 g									
			Threshold 1		Threshold 2		Threshold 3		Threshold 4*		Threshold 2#	
			≤5	>5	≤10	>10	≤15	>15	≤7.5	>7.5	≤10	>10
Beverages	Fruit juice	165	0	165	106	59	161	4	9	156	0	0
	Fruit drink	17	16	1	17	0	17	0	16	1	0	0
	Fruit & vegetable juice blend	37	2	35	28	9	37	0	9	28	0	0
	Vegetable juice	14	7	7	14	0	14	0	11	3	0	0
	Other non-alcoholic beverage	36	27	9	33	3	34	2	33	3	0	0
	Cider	7	1	6	7	0	7	0	7	0	0	0
Cereal	Breakfast cereal	27	20	7	22	5	25	2	0	0	22	5
	Fruit bread	6	2	4	2	4	2	4	0	0	2	4
Dairy	Yoghurt	82	53	29	82	0	82	0	0	0	82	0
	Dessert	29	20	9	29	0	29	0	0	0	29	0
	Milk based protein drink	7	5	2	7	0	7	0	7	0	0	0
Dairy alternative	Plant milk	41	39	2	41	0	41	0	41	0	0	0
	Yoghurt	2	2	0	2	0	2	0	0	0	2	0
	Dessert	3	3	0	3	0	3	0	0	0	3	0
Fruit	Canned fruit	22	0	22	12	10	22	0	0	0	12	10
	Puréed fruit	11	0	11	3	8	11	0	0	0	3	8
	Dried fruit	51	1	50	6	45	6	45	0	0	6	45
	Frozen fruit	29	3	26	20	9	29	0	0	0	20	9
	Frozen fruit juice	4	0	4	0	4	4	0	0	0	0	4
Snack food	Fruit & nut balls	41	0	41	0	41	0	41	0	0	0	41
	Fruit wrap	9	0	9	0	9	0	9	0	0	0	9
	Snack/muesli bar	11	2	9	2	9	2	9	0	0	2	9
Sauce	All	22	18	4	20	2	21	1	0	0	20	2
Spread	Jam	2	0	2	0	2	0	2	0	0	0	2
Toddler/infant food	Puréed fruit & fruit/vegetable products	41	1	40	22	19	40	1	0	0	22	19
	Meals with puréed fruit & vegetables	26	26	0	26	0	26	0	0	0	26	0

		Total sugar g/100 g										
		Threshold 1		Threshold 2		Threshold 3		Threshold 4*		Threshold 2#		
Category	Type	n	≤5	>5	≤10	>10	≤15	>15	≤7.5	>7.5	≤10	>10
	Snack	26	13	13	22	4	22	4	0	0	22	4
	Dried fruit	2	0	2	0	2	0	2	0	0	0	2
	Other toddler/infant foods	17	4	13	15	2	17	0	0	0	15	2
Vegetable	Canned or frozen	24	24	0	24	0	24	0	0	0	24	0
	TOTALS	811	289	522	565	246	685	126	133	191	312	175

*Counts include beverages only

#Counts include foods only

Attachment H – Consideration of costs and benefits

1. Introduction

FSANZ has given consideration to the costs and benefits that may arise in relation to this proposal, to satisfy the requirements of section 59 of the *Food Standards Australia New Zealand Act 1991* (FSANZ Act).

The FSANZ Act requires FSANZ to have regard to whether costs that would arise from the proposed measure outweigh the direct or indirect benefits of the proposed measure⁴⁸. The purpose of this consideration is to determine if the community, government and industry as a whole is likely to benefit from a move from the status quo to the proposed option.

Impact analysis requirements applying to FSANZ were changed in April 2023⁴⁹. As a result, undertaking a Regulation Impact Statement (RIS) in addition to the assessment required under the FSANZ Act is no longer mandated. FSANZ has undertaken its assessment in accordance with the FSANZ Act to consider the regulatory impacts and costs and benefits in line with RIS guidance.

While a RIS will not be developed and assessed by the Office of Impact Analysis (OIA) for this proposal, FSANZ has developed this attachment in line with the OIA RIS guidance.

2. What is the problem?

The Australia New Zealand Food Standards Code (the Code) permits voluntary 'no added sugar(s)' nutrition content claims to be made on foods subject to certain conditions.

Dietary guidelines provide evidence-based population health advice on healthy eating and the prevention of chronic diseases. The Australian and New Zealand dietary guidelines include recommendations about added sugars intake, being to limit intake of foods containing added sugars (Australia⁵⁰), and to choose and/or prepare foods with little or no added sugars (New Zealand⁵¹).

The dietary guidelines recommend to limit added sugars intake due to increased risk of excess weight gain and dental caries.

The total cost of overweight and obesity (not including the cost of dental caries) to the community is estimated to be:

- Australia – between AUD\$20bn to \$25bn per annum⁵²
- New Zealand – NZD\$4.5bn to \$10bn per annum⁵³

⁴⁸ Paragraph 59(2)(a) of the FSANZ Act

⁴⁹ For more information, refer to the Regulatory Impact Analysis Guide for Ministers' Meetings and National Standard Setting Bodies (June 2023)

⁵⁰ [Australian dietary guideline documents](#)

⁵¹ [New Zealand dietary guideline documents](#)

⁵² This is based on a 2015 report by PwC titled *Weighing the cost of obesity: A case for action*, with the estimated economic cost of obesity adjusted by FSANZ for population growth and inflation. A further adjustment was made to account for the economic cost of overweight, based on a 2010 study by Colagiuri (et al) titled *The cost of overweight and obesity in Australia*

⁵³ This is based on a 2021 report by Sapere and Hāpai te Hauora titled *Economic impact of excess weight in Aotearoa*, adjusted by FSANZ for population growth and inflation

The Australian Institute of Health and Welfare (AIHW) estimated the cost of dental caries in Australia in 2019–20 to be \$4.5bn⁵⁴.

Ministerial policy guidance is that food labels, including voluntary information such as claims, provide adequate information to enable consumers to make informed food choices to support healthy dietary patterns recommended in the dietary guidelines⁵⁵; and that claims support initiatives that promote healthy food choices by the population and protect consumers from false and misleading information that may result in distorted diets which harm health and increase health inequalities⁵⁶.

As the existing conditions for making ‘no added sugar(s)’ claims were developed prior to the release of the current dietary guidelines, it is unclear whether the ‘no added sugar(s)’ claim conditions in the Code align with the current Australian and New Zealand dietary guidelines, and support consumers to make informed choices in line with these guidelines when purchasing products with added sugars claims. See sections 1 and 2 of the approval report for a full statement of the problem, relevant background and history of added sugar claims.

A rapid literature review of evidence relating to consumer understanding and responses to ‘no added sugar(s)’ claims on food products is described in SD1 and summarised in section 3.2.2 of the approval report. Key findings from the available evidence suggest the presence of ‘no added sugar(s)’ claims can influence consumers’ perceptions of healthfulness of a food and can influence their purchasing decisions.

3. What options are being considered?

Option 1 – maintain the status quo

In any consideration of changes to regulation, the status quo must be a part of FSANZ’s assessment.

This option would maintain the existing conditions for making voluntary ‘no added sugar(s)’ or ‘unsweetened’ nutrition content claims in the table in S4—3 of Schedule 4 of the Code.

Option 2 – amend the Code to define and clarify added sugars for the purposes of making no added sugar(s) (and unsweetened) claims

This option would amend the existing conditions in the table in S4—3 of Schedule 4 of the Code to define added sugar and clarify the foods that are permitted to make voluntary ‘no added sugar(s)’ or ‘unsweetened’ (or synonyms of these descriptors) nutrition content claims.

There are no other measures (whether available to FSANZ or not) that would be more cost-effective than a food regulatory measure developed or varied as a result of the proposal.

4. Consideration of costs and benefits, and likely net benefit

The purpose of this section is to consider the costs and benefits of the proposal (Option 2 for the purposes of this analysis) to determine whether the proposal would result in a net benefit.

⁵⁴ Oral health and dental care in Australia, Australian Institute of Health and Welfare, last updated 17 March 2023

⁵⁵ [Policy guideline on food labelling to support consumers to make informed healthy food choices](#)

⁵⁶ [Policy guideline on nutrition, health and related claims](#)

Not all of the impacts can be quantified, due to either:

- a lack of available data
- the nature of the impact making it extremely difficult to quantify (e.g. the value of informed choice to consumers).

Whether an impact is quantified or not does not reflect the significance of the impact. All dollar values used in this assessment are Australian dollar values unless stated otherwise.

FSANZ has considered data and other information supplied by stakeholders during the Call for Submissions. Relevant information or data that did not allow for quantification has been reflected in a qualitative way.

4.1 Consumer impacts

4.1.1 Benefits to consumers

Less potentially misleading information and more informed choice

The policy intent is that 'food labels (including optional information like claims) provide adequate information to enable consumers to make informed food choices to support healthy dietary patterns recommended in the dietary guidelines'⁵⁷. The dietary guidelines are evidence-based population health advice on healthy eating and the prevention of chronic diseases.

Lack of alignment between the conditions for making added sugar claims and the dietary guidelines undermines this intent. Information on the absence of 'added sugar' by voluntary nutrition claims can enable consumers to make informed choices about sugar in their diet.

Available evidence suggests the presence of 'no added sugar(s)' claims may influence consumers' perceptions of healthfulness of a food. Refer to section 3.2.2 of the Approval Report. Defining and clarifying 'added sugar' to align claims about added sugar with dietary guidelines supports the policy intent of enabling consumers to make informed choices and reduces the potential for them to be misled.

Alignment between claim conditions and dietary guidelines also supports education and other healthcare initiatives, which would further enhance the benefit to consumers of more informed choice.

The scale of this impact is limited by the following factors:

- consumers choose foods for a variety of reasons, many of which are not health related⁵⁸
- food labels are one of many sources of information that may inform consumers' choice of foods to eat.

As a result, defining and clarifying the conditions for making added sugar claims may not lead to a positive outcome for all consumers.

The value of the benefit to consumers has not been quantified due to the complexity of valuing a benefit of this nature.

⁵⁷ Refer to the *Policy Guideline on Food Labelling to Support Consumers to Make Informed Healthy Choices* for more information

⁵⁸ For further discussion of the value of 'no added sugar' claims relative to other product attributes, refer to the consumer evidence section of the CFS at Section 3.2

Potential for health improvements

The extent of any health improvements have not been quantified. This intervention only represents a modest intervention in terms of the wider policy intent of dietary guidelines. However, it is well understood that health costs to the economy are significant and even small improvements in outcomes can be cost effective.

4.2 Food industry impacts

4.2.1 Benefits to industry

Ingredient suppliers – potential greater demand for alternative ingredients

The food industry produces food that consumers demand, which includes products that make voluntary 'no added sugar(s)' and 'unsweetened' claims. Where a product is no longer able to use these claims, industry may (in some instances and where possible) reformulate the product to continue to meet consumer demand and make claims. This may increase demand for certain ingredients. However, as mentioned below it is uncertain how likely this is.

Demand may also increase for other alternative food and drinks as a result of the removal of the labelling.

There will potentially also be a higher level of consumer trust in labelling generally, supporting the supply and sale of food.

4.2.2 Costs to industry

The expected cost impacts on industry are:

- Quantifiable:
 - Relabelling costs
- Unquantifiable:
 - Potential lost sales from products with removed claims
 - Reduced demand for ingredients which are captured in the claim conditions where products are reformulated to retain 'no added sugar(s)' or 'unsweetened' claims

Costs to re-label impacted products

Some adjustment to these costs have been made since the call for submissions report in response to feedback from stakeholders, the extension to the transition period and the addition of a stock-in-trade period. As an alternative to providing a single point estimate, a lower and upper bound estimate of possible labelling costs have been estimated. The lower bound estimate of cost is \$4.51 million and the upper bound estimate of cost is \$9.02 million. The data and assumptions used to create these estimates are set out below.

Number of impacted products

Costs have been measured on a per stock keeping unit (SKU) basis. One SKU covers all containers with the same unique package type, shape, size, brand and contents.

For instance, one SKU covers:

- All 160 g tubs of the same yoghurt with the same label, produced by the same company with the same brand. This is a different SKU to a 1 kg tub or a different shaped tub of the same yoghurt produced by the same company; and

- All identical cartons of the same 1 L oat milk, of the same shape, produced by the same company with the same label.

FSANZ has used a number of data sources to construct its estimate of the number of SKUs potentially impacted by the proposed change. FSANZ firstly undertook its own survey of supermarkets to assess the percentage of products with 'no added sugar(s)' and 'unsweetened' claims likely to need to change. The following data rules were applied:

- All products carrying a 'no added sugar(s)' or 'unsweetened' claim identified during our supermarket scan were considered in scope.
- Any liquids (plant milks, alcoholic beverages, non-alcoholic beverages – juices, fruit/vegetable drinks, soft drinks, energy drinks, mineral waters, kombucha etc) containing a total sugars content >7.5 g/100 mL will be impacted. This means any products with a total sugars content ≤7.5 g/100 mL would be able to carry a claim (unless they contain an 'added sugar' as defined).
- Any solids (breakfast cereals, canned, frozen or puréed fruit/vegetables, dried fruit, snack balls/bars/wraps, soups, sauces, dairy desserts/custards, yoghurts, toddler foods – fruit/vegetable purées, snacks, meals and cereals, yoghurts and custards) containing a total sugars content >10.0 g/100 g will be impacted. This means any product with a total sugars content ≤10.0 g/100 g would be able to carry a claim (unless they contain an 'added sugar' as defined).

While this was not an exhaustive search it provides a sufficient sample to estimate the percentage of products likely to be impacted by the proposed change. Based on the above, it was estimated 366 (191 beverages and 175 foods) of the 811 (324 beverages and 487 foods) products will be impacted, which is approximately 45% of products (Refer to section 3.2.1 of the approval report).

Data provided through the call for submissions indicated 2,809 Australian and New Zealand products currently carry a 'no added sugar(s)'/ 'unsweetened' claim. This number is based on:

- 1,613 products identified in The George Institute for Global Health's 2022 FoodSwitch dataset
- 1,196 products identified in New Zealand Food Safety (NZFS) GS1 On-Pack database.

Given some uncertainty around the number of SKUs affected, a range has been considered. At the lower end we have assumed 50% of the 2,809 products (i.e. 1,404.4 rounded to 1,400 for ease of calculation) identified are impacted. At the upper end we have assumed 100% of the 2,809 products (rounded to 2,800) are impacted. Presenting a range aims to address any data limitations.

Cost per SKU

FSANZ estimates it will cost a weighted-average of \$3,223 per affected SKU to change labels. This weighted-average estimate per SKU:

- is based on the 2022 Cost of labelling model for general food products, produced by Marsden Jacob consultants for FSANZ
- incorporates updates for producer price inflation to September 2023

- assumes a four-year transition period and a further 2 year stock-in-trade provision (SIT). It is assumed that the label change costs would be 30% lower, on average under a 4-year transition period, plus 2 years SIT, compared to the shorter 2-year transition period proposed at call for submissions. This assumption has been drawn from the FSANZ 2021 label change cost model for alcoholic beverages, because the general model does not have data to cover such a long transition period.
- assumes the following label changes:
 - label design – changes to text and label layout
 - proofing the label
 - no change to the label shape or size.
- FSANZ does not believe a change to the label shape or size would be required, given some text and logos (and possibly an ‘added sugars’ line in some NIPs) would be removed rather than added.

Label change costs per SKU for different package types have been adjusted for the latest September 2023 producer price inflation figures and reduced by 30% because of the extended transition period. Updated costs per SKU are shown in Table 1.

Table 1: Average re-label cost by packaging type

Packaging Type	Estimated average cost per SKU (AUD)
Cardboard/paperboard/paper, including folding, sleeves, blister backing card	\$2,453
Cardboard/paperboard/paper, including paper coverings & swing tickets	\$2,970
Liquid paperboard carton	\$7,345
Plastic pouch / Doy pouch	\$5,506
Flow wrap / Sealed plastic bag	\$3,125
Plastic bag	\$1,677
Top web (pre-printed film applied to tray or vacuum sealed)	\$1,639
Parchment paper / Aluminium foil	\$869
Plastic in mould (no adhesive label)	\$2,700
Label directly printed onto aluminium/steel (Formula)	\$5,550
Different material types (glass, plastic, steel, etc)	\$2,858
Shrink film applied to product	\$2,893
Plastic vacuum wrap label	\$2,310
Weighted average cost over all packaging types	\$3,223

Total label change costs to industry

The **lower bound estimate** is calculated by multiplying 1,400 SKUs by \$3,223 per SKU = \$4.51 million. That assumes 50% of the roughly 2,800 products identified are impacted.

The **upper bound estimate** is calculated by multiplying 2,800 SKUs by \$3,223 per SKU = \$9.02 million. That assumes 100% of the products identified are impacted.

Potential re-formulation costs

As noted previously, industry may choose to reformulate a product to meet the proposed changed conditions for making 'no added sugar(s)' or 'unsweetened' claims.

While this potential impact is noted, FSANZ has assumed for the purposes of estimating the cost to industry that 100% of impacted products will be re-labelled rather than re-formulated. If evidence exists that reformulation is a likely outcome, this could result in higher costs to industry. The decision to reformulate to maintain a voluntary claim is ultimately a business decision for the manufacturer.

Potential lost sales from products with removed 'no added sugar(s)' or 'unsweetened' claims

There may be less sales of impacted products where the 'no added sugar(s)' or 'unsweetened' claim is removed. This cost has not been quantified due to the complexity of valuing an impact of this nature. However, it is likely these costs will be largely offset by increased purchases of other products by consumers.

Reduced demand for ingredients captured in the claim conditions

Demand for some ingredients (inputs into the food manufacturing process) may reduce as a result of the proposal.

This will occur where:

- a food is reformulated to keep the 'no added sugar(s)' claim, resulting in the ingredient not being used
- demand for a food reduces where the 'no added sugar(s)' claim is removed, reducing demand for the ingredient

Ingredients that may be impacted include 'added sugar' (e.g. sugar and sugar syrups, honey etc) and processed fruit and vegetables (e.g. juice, pulp, purée and powders). Any reduction in sales will impact on the agricultural sector and any processors in the supply chain.

This cost has not been quantified due to the complexity of valuing an impact of this nature, including uncertainty on how food manufacturers and consumers will react to the change.

4.3 Impacts on governments

Increased effectiveness of education efforts and the promotion of dietary guidelines regarding added sugars

The effectiveness of government education initiatives may improve as a result of this proposal.

The dietary guidelines are used by government agencies to develop education messages directed at consumers with the goal of improving nutrition and health outcomes.

Lack of alignment between the intent of the dietary guidelines and food labelling (in this case 'no added sugar(s)' and 'unsweetened' claims) potentially reduces the effectiveness of this education.

In the longer-term there is the potential for some reduced health-related costs for governments either directly from the change or more likely as a result of the cumulative impact of multiple initiatives.

4.4 Summary of impact analysis findings – likely net benefit

Amending the Code as proposed under Option 2 will impact three main groups:

- consumers
- the food industry, specifically
 - manufacturers and importers of finished food products
 - ingredient suppliers, including other manufacturers, importers and farmers
 - retailers, where own brand products are impacted
- governments.

There is not expected to be any significant net impacts for retailers or wholesalers within the food industry (except for when own brand products are impacted). It has been assumed any cost to industry will be primarily borne by manufacturers, or ultimately passed onto consumers.

The proposal will impact products labelled as either ‘no added sugar(s)’ or ‘unsweetened’. Data reviewed by FSANZ indicates that most impacted products will be those labelled ‘no added sugar(s)’, as not as many products labelled ‘unsweetened’ were identified.

Table 2 shows the main groups likely to be affected by the proposed change to claim conditions and the main potential impacts on these groups.

Table 2: Major potential impacts by group

Group	Potential impact	Notes on potential impact
Consumers	Benefits	Less potentially misleading information and more informed choice. This may allow consumers to better optimise purchasing decisions generally and in line with dietary guideline recommendations. Potential for better health outcomes for consumers who choose to buy food with the claims.
Food industry		
Manufacturers and importers of finished food products	Costs	Re-labelling cost for affected products. Potential lost sales from products with removed claims and decreased demand for ingredients which are captured in the claim conditions. Potential lost sales of ingredients to final food products, where final products are re-formulated to retain ‘no added sugar’ claims and the ingredient is no longer used. Potential higher levels of consumer trust in food labelling.
Ingredient suppliers	Benefits	Potential greater demand for sugar alternatives and other products.
Government	Benefits	Increased effectiveness of education efforts and the promotion of dietary guidelines regarding added sugars. Potential for some reduced health related costs.

5. Who was consulted and how was their feedback incorporated?

Please see Section 2.7, Section 3.1 and Appendix 1 of the approval report for full details. Substantial surveying and discussions with a wide range of industry participants were also undertaken in 2022 as part of Marsden Jacob’s development of FSANZ’s cost model.

6. Conclusion of analysis: Benefits of option 2 outweigh costs

The proposal will benefit consumers by reducing the likelihood that they are potentially misled and enabling more informed choice in support of dietary guideline recommendations. This may lead to improvements in the health of the Australian and New Zealand populations by reducing the severity and/or occurrence of diet related illness. It will also support other interventions such as education. The cost of this proposal is primarily the cost for the food industry to update food labels where 'no added sugar(s)' and 'unsweetened' claims may no longer be made. The cost of these label changes is a one off cost, estimated at between \$4.51 and \$9.02 million.

This intervention only represents a small intervention in terms of the wider policy intent of dietary guidelines. However, it is well understood that health costs to the economy are significant and even small improvements in outcomes can be cost effective. The total cost of the proposal is modest when compared to the economy-wide health cost of overweight and obesity (not including the cost of dental caries) estimated to be:

- Australia – between AUD\$20bn to \$25bn per annum
- New Zealand – NZD\$4.5bn to \$10bn per annum.

Additionally, the cost of dental caries was estimated to be \$4.5bn in Australia alone in 2019–20 according to AIHW data.

Based on the above costs and benefits, FSANZ has concluded the proposed changes to the Code (Option 2) will likely have the largest net benefit and result in a net benefit as part of a stand-alone and/or cumulative intervention and is therefore the preferred option.