

## Response ID ANON-JN9Z-F83R-E

Submitted to P1062 - Defining added sugars for claims  
Submitted on 2023-10-06 18:00:50

### Complete your submission

#### Your details

What is your name?

Contact person:

Food Safety Standards and Regulation Unit

What is your email address?

Email address:

[REDACTED]

What is your telephone number?

Telephone:

[REDACTED]

Which one of the following groups do you most affiliate with?

Government

If other, please specify:

What is the name of your organisation?

Please write N/A if this does not apply.:

Queensland Health

What is your position title?

Please write N/A if this does not apply.:

N/A

Are you the contact person for your organisation?

No

If you are not the contact person for your organisation, please provide an alternative contact and details. If not applicable, please leave blank.

Contact person's name:

[REDACTED]

Email address:

[REDACTED]

Telephone:

[REDACTED]

Position title:

Director

Have you read the P1062 – Defining added sugars for claims call for submission paper?

Yes

#### Confidential information

All submissions will be published, including redacted versions of confidential submissions. We will not publish material that we accept as confidential. Does your submission contain confidential information?

No. My submission does not contain confidential information.

## Proposed changes to 'no added sugar(s)' claim conditions

1 FSANZ proposes to continue to set 'no added sugar(s)' claim conditions based on the addition of ingredients to foods (see section 5.2 of the Call for submissions document).

Do you have any comments on this approach?:

FSANZ's approach to continue to set claim conditions based on the addition to ingredients to foods alone is of a concern to Queensland Health Officers. Sugars that are a consequence of food manufacturing processes should also be included in the definition.

As the Australian Dietary Guidelines (NHMRC, 2013 - <https://www.nhmrc.gov.au/adg>) recommend limiting sugar intake and also achieving and maintaining a healthy weight, this should also be an important consideration for FSANZ. Foods and beverages high in sugar, whether specifically added or as a consequence of manufacturing processes, have a higher energy content, making a healthy weight more difficult to achieve and maintain.

Further, the substances proposed to be incorporated in the definition are not consistent with the draft claim conditions proposed in section 5.3 of the CFS document. It does seem consistent to exclude some substances from making a 'no added sugar' claim but not include them in the definition of added sugars or vice versa. Consequently, it is suggested that the definition include all forms of vegetable juice, powder, pulp and purée where they contribute a significant portion of monosaccharides and disaccharides, as well as sugars formed from processes such as hydrolysis and fermentation, and all low energy sugars. Officers from Queensland Health also recommend all types of fruit juice (including concentrated when it is the food for sale), as well as fruit juice added to canned or frozen fruit and blended fruit and vegetable juices be included in the definition, especially as the natural juice or syrup accompanying the canned fruit may be consumed also.

2 FSANZ proposes a food displaying a 'no added sugar(s)' claim must not contain an 'added sugars' as an added ingredient including an ingredient of a compound ingredient. FSANZ proposes defining 'added sugars' for this claim condition (see section 5.2.1.4 of the Call for submissions document).

Do you have any comments on this approach or the defined added sugars (see below)?:

The work from FSANZ to clarify the definition of 'added sugar(s)' as proposed in 5.2.1.4 is acknowledged. However, a view is held that P1062 presents an opportunity to develop a comprehensive definition of added sugar. This could be achieved by including sources of sugar from other fruit products, not included in the proposed definition, such as fruit juice, fruit juice powder, fruit powder, fruit pulp, fruit puree, concentrated fruit puree, and a blend or combination of two or more of these ingredients. This approach is consistent with previous submissions from public health stakeholder groups provided during consultation on P1058 in September 2022.

The proposal that whole, cut or chopped dried fruit is not an added sugar for the purposes of including in the definition of 'added sugars' is endorsed. The Australian Dietary Guidelines (NHMRC, 2013 - <https://www.nhmrc.gov.au/adg>) state that fruit should be mostly consumed as fresh and raw, however, whole or cut dried fruit and fruit juice are provided as examples of a serve of fruit for occasional consumption.

There is a precedent for not treating dried fruit as added sugar. The World Health Organization Guideline: sugars intake for adults and children (WHO, 2015 - <https://www.who.int/publications/i/item/9789241549028>) does not include dried fruit in the definition of 'free sugars', which includes monosaccharides and disaccharides added to foods and beverages by the manufacturer, cook or consumer, and sugars naturally present in honey, syrups, fruit juices and fruit juice concentrates.

The Consumer Evidence Summary: 'No Added Sugar' Claims provided by FSANZ with the CFS includes Australian evidence that a higher proportion of consumers consider fruit juice an added sugar compared to dried fruit (65.1% and 50.3%, respectively).

3 FSANZ proposes 'no added sugar(s)' and 'unsweetened' claims are not permitted on foods containing the hexose monosaccharide D-tagatose, as an ingredient, consistent with existing claim conditions in the Code. As D-tagatose is a hexose monosaccharide, it is captured in the definition of 'added sugars' (see section 5.2.2 of the Call for submissions document).

Do you have any comments on this approach?:

Queensland Health Officers concur that this approach is suitable.

4 FSANZ proposes foods containing low energy sugars (mono- and disaccharides), as ingredients, listed in subsection S11—2(3) of Schedule 11 not be permitted to display 'unsweetened' claims (see section 5.2.2 of the Call for submissions document).

Do you have any comments on this approach?:

Queensland Health Officers concur that this approach is suitable.

5 FSANZ proposes a food displaying a 'no added sugar(s)' claim must not contain the fruit products listed below as an added ingredient (including as an ingredient of a compound ingredient). FSANZ proposes to exempt fruit products which are lemon or lime fruit (see section 5.3 of the Call for submissions document).

Do you have any comments on this approach or the fruit products listed?:

Officers from Queensland Health concur with the proposed approach for not permitting a 'no added sugar' claim when the listed fruit products are added as an ingredient.

6 FSANZ proposes a fruit product which is the food for sale (e.g. fruit juice) be permitted to make a 'no added sugar(s)' claim. This includes when the food is sold as a singular fruit (e.g. apple juice) or a blend of different fruits (e.g. blend of fruit juices), providing the food contains no 'added sugars' or other products identified in claim conditions, as added ingredients. A blend or combination of different fruit products (e.g. fruit juice and fruit purée) will not be permitted to make the claim. FSANZ also proposes to clarify that fruit does not include legumes, fungi, herbs, nuts and spices for the purpose of the claim conditions (see section 5.3 of the Call for submissions document).

Do you have any comments on this approach?:

Concern is raised regarding the permission for 'no added sugar(s)' claim on a fruit product which is the food for sale. Permitting 'no added sugar(s)' claims can give these foods a health halo effect and perpetuate consumer beliefs that these fruit products are healthy.

Further the decision to exclude processed vegetable products from the definition of added sugars is also a concern. This is as some vegetables (e.g. sweet corn, sweet potato) can be a significant source of sugar in the diet, particularly when they are juiced, powdered, dried, pulped, or pureed. This is evidenced in the Australian Dietary Guidelines (NHMRC, 2013 - <https://www.nhmrc.gov.au/adg>) which state:

Evidence suggests Australians need to eat less starchy vegetables (i.e. there is a need to include a wider variety of different types and colours of vegetables)

With respect to fruit products, it is recommended that all fruit juice products, including where the fruit product is the food for sale (e.g., fruit juice) and where fruit juice is added to canned or frozen fruit not be permitted to make a 'no added sugar' or similar claim (e.g., 'unsweetened', 'no refined sugar', 'no cane sugar'). This is as despite recommendations in the Australian Dietary Guidelines (NHMRC, 2013 - <https://www.nhmrc.gov.au/adg>) that such foods provide an alternative to fresh fruit, they should still be limited in quantity, particularly for fruit juice, which is usually sold in individual portion sizes that far exceed recommended serving sizes. Also, whilst it is appreciated that food labelling is only one part of a broader public health approach needed to support the public to consume foods and beverages that are recommended by the Australian Dietary Guidelines (NHMRC, 2013 - <https://www.nhmrc.gov.au/adg>), it is important that the information provided, and claims made, on food labels do not undermine such efforts by misleading and creating confusion amongst the public.

7 FSANZ proposes 'no added sugar(s)' claims are not permitted when the concentration of sugars in the food is increased from the hydrolysis of carbohydrates during food manufacture, except when the sugars concentration in cereal-based plant milks made using hydrolysis is  $\leq 1.5\%$  (and the product otherwise meets claim conditions) (see section 5.3.2 of the Calls for submissions document).

Do you have any comments on this approach?:

It is suggested that where the added sugar in a food is the consequence of manufacturing processes, this should include sugars that arise from any processing technique, not just hydrolysis. Further, the claim exemption for cereal-based plant milks made using hydrolysis is not endorsed. This sets a precedent for other products to apply for similar exemptions. In addition, it is unclear if the exemption is based on 1.5% sugar by product weight, product serve size or by kilojoule content.

8 FSANZ proposes to maintain the existing condition that a food displaying an 'unsweetened' claim must meet the conditions for a 'no added sugar(s)' claim, noting that the amended 'no added sugar(s)' claim conditions will apply (see section 5.4 of the Call for submissions document).

Do you have any comments on this approach?:

FSANZ's proposal is favoured as this will ensure consistency between the conditions for a 'no added sugar' claim and an 'unsweetened' claim. However, it is offered that this condition should be extended to other similar claims appearing in the marketplace such as 'no cane sugar' and 'no refined sugar'.

9 FSANZ proposes to maintain the existing condition for intense sweeteners, sorbitol, mannitol, glycerol, xylitol, isomalt, maltitol syrup or lactitol. FSANZ proposes a food containing low energy sugars (mono- and disaccharides) listed in subsection S11—2(3) of schedule 11, as an ingredient (including an ingredient of a compound ingredient), not be permitted to display an 'unsweetened' claim (see section 5.4 of the Call for submissions document).

Do you have any comments on this approach?:

Products containing intense sweeteners should continue to be unable to carry 'unsweetened' claims however it is recommended that this should be extended to all sweeteners in the food supply. It is also suggested that FSANZ consider the use of the term 'non-sugar sweetener' rather than 'intense sweetener' to provide consistency with the World Health Organization definition. It is also recommended claim conditions be consistent with the Use of non-sugar sweeteners: WHO guideline (WHO, 2023 - <https://www.who.int/publications/i/item/9789240073616>).

10 FSANZ is proposing 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 (see section 7 of the Call for submissions document).

Do you have any comments on this approach?:

The proposed two-year transition period is deemed as a suitable timeframe that is consistent with previous mandatory labelling changes whilst also providing industry a reasonable interval to complete updates to their labels.

Data and evidence

11 Do you have any data or are you aware of published data on the number of products with 'no added sugar(s)' or 'unsweetened' claims in Australia and/or New Zealand (see data used for this proposal at section 3.1 of the Call for submissions document)?

No

If yes, please upload your file here.:

No file uploaded

12 Do you have any evidence or are you aware of published literature on consumer understanding of and responses to 'no added sugar(s)' or 'unsweetened' claims on food products (see evidence used for this proposal at section 3.2 of the Call for submissions report and Supporting Document 1)?

No

If yes, please upload your file here.:

No file uploaded

13 Do you have any data or know of any published data on the costs of labelling changes per stock keeping unit or package type (see data used for this proposal at Attachment E to the Call for submissions document)?

No

If yes, please upload your file here.:

No file uploaded

## Additional comments

### Comments and other input

#### Additional comments and input:

Thank you for the opportunity to provide a submission on the Call for Submissions Proposal (CFS) P1062.

This submission provides comments on the proposed changes to the Australia New Zealand Food Standards Code (the Code) and was prepared with input from health professionals from the Food Safety Standards and Regulation Unit, Prevention Strategy Branch and Health and Wellbeing Queensland. The submission does not represent a Queensland Government position, which will be a matter for the Queensland Government should notification be made by the FSANZ Board to the Food Ministers' Meeting.

Proposal P1062 has been prepared to amend Schedule 4 of the Code to clarify and align the conditions for 'no added sugar(s)' nutrition content claims. The opportunity to provide a response to this proposal is welcomed and attempts to define 'added sugars' for use in claims on food labels (e.g. nutrition content claims) and in the nutrition information panel (NIP) and front of pack labelling.

It is recognised that this work is important for addressing the Food Ministers Meeting (FMM) request to ensure that added sugar claims align with dietary guidelines and to identify the best way to provide information about added sugars to the public. As such this work is related to other Food Standards Australia New Zealand (FSANZ) work, including P1508 (Nutrition Labelling about Added Sugars) and P1049 (Carbohydrate and Sugar Claims on Alcoholic Beverages). It is considered that having a standard definition for added sugars that is suitable for a variety of purposes to be a high priority public health nutrition matter.

This proposal claims that the amendments to Schedule 4 will provide clarity and certainty for industry and government in the implementation and enforcement of the voluntary nutrition content claims permitted to be made about added sugars in food, whilst providing information to consumers to enable them to make informed choices consistent with Australian and New Zealand dietary guideline recommendations about sugars.

It is offered that the proposed definition of added sugars is fit for the purpose of making 'no added sugar' claims but is not sufficient for other purposes, such as proposal P1058 (Nutrition Labelling about Added Sugars). It is suggested that the added sugar definition proposed in P1062 should be fit for purpose to be suitable for all instances where a definition of added sugar is required. The benefit of this approach is that added sugars would be defined consistently throughout the Code, preventing any confusion. Additionally, it is considered that the definition of fruit and vegetables needs to be more clearly defined. It is acknowledged that Schedule 22 of the Code may be relevant, however it is noted that culinary definitions utilised by the public would differ markedly to a technical definition used by a biologist.

From a public health perspective, it is essential that industry cannot use marketing claims to confuse or mislead consumers or promote some food options as 'better for you' options. This is especially important considering the significant burden of overweight and obesity as currently there is potential to be misled by no added sugar claims or there to be confusion by a health halo concept that may promote some items as healthier choice. This is inconsistent with a key priority of the food regulation system (Priority 2) to support the public health objectives to reduce chronic disease related to overweight and obesity.

The Policy Guideline on Food Labelling to Support Consumers to Make Informed Healthy Choices was endorsed by Ministers in August 2020, whereby Ministers expect food labels to provide adequate information to enable consumers to make informed food choices to support healthy dietary patterns recommended in the Dietary Guidelines. Guideline 1 of the Australian Dietary Guidelines (NHMRC, 2013 - <https://www.nhmrc.gov.au/adg>) states 'to achieve and maintain a healthy weight, be physically active and choose amounts of nutritious food and drinks to meet your energy needs'. As such, the

proposed amendment to the Code does not enable consumers to make informed decisions to support healthy dietary patterns and therefore does not align with the intentions set out in the Ministerial Policy Guideline.

As outlined in FSANZ's Consumer Evidence Summary, nutrition content and other health-related claims clearly influence purchasing and consumption decisions and ultimately the long-term health of the public. Consequently, it is vital the public can clearly distinguish foods and beverages that are high in sugar with easy-to-understand labelling and are not misled by clever marketing claims that disguise the true sugar content of the foods they purchase and consume.

Thus, Queensland Health Officers concur with FSANZ's conclusion that option 2 will provide a greater long-term benefit to the public than the one-off labelling change cost that will be incurred by industry. However, whilst the cost benefit analysis concludes that Option 2 represents the greatest net benefit to the community, government and industry, it is submitted that this analysis does not adequately consider costs to public health. While it may not be explicitly stated in the FSANZ Act, costs to public health should be considered part of the 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 component, the cost burden of a proposal or standard to public health at both the community and government level.

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>). Regulation of sugar claims in Australia and New Zealand can be regarded as an investment in public health.

Should you require further information in relation to this matter, please contact Food Safety Standards and Regulation, Health Protection Branch, Department of Health on (07) 3328 9310 or at [foodsafety@health.qld.gov.au](mailto:foodsafety@health.qld.gov.au).

Please upload additional files here.:

No file uploaded

## Feedback

What is your level of satisfaction with using this platform to complete your submission?

Satisfied

Do you have any feedback you would like to provide to FSANZ regarding this new platform?

Yes

If yes, please provide details.:

It would be useful to be able to include references as hyperlinks however the formatting will not allow this currently.