



Submission by Lion Pty Limited
on
Proposal P1062 – Defining added sugars for claims

6 October 2023

About Lion

Lion is a leading alcohol beverage company headquartered in Sydney, Australia. With origins dating back 180 years, Lion is known for its commitment to quality, craftsmanship, community, and sustainability. Lion is a pioneer in brewing and continues to innovate across a range of adult beverages. Its core beer portfolio includes many locally loved brands such as XXXX, Toohey's, Little Creatures, James Squire, Speight's, Steinlager, Emerson's and Panhead, more recently adding international craft brands to the fold, including New Belgium, the second largest craft brewer in the United States. Lion's portfolio also includes NZ wine brands, a premium fine wine business in North America and shareholdings in several craft adult beverage companies.

Lion employs close to 4,000 people across Australia, New Zealand, and the USA, and is proud to be a carbon zero certified beverages company, recognized for its progressive policies and culture around flexible working, diversity, inclusion, and gender pay equity. Lion runs education platform Alcohol&Me and is a member of responsible drinking charities Drinkwise and Cheers!

Overview of Lion's Position

Lion welcomes the opportunity to comment on the Call for Submissions documents for Proposal P1062 *Defining added sugars for claims* (the CFS). Lion supports the provision of information to consumers about the products they purchase and consume to assist them in making informed choices.

Lion does not support the proposed variation to the Table to Schedule 4-3 (table entry dealing with "Sugar or sugars") in its present form. Insofar as it affects beer, the proposed variation is not consistent with the rationale provided by FSANZ for this proposed variation. Use of malt and malt extracts in the production of beer is not an addition of sugar, because malt and malt extracts are the essential ingredients for beer and the sugars contained in these ingredients are consumed by fermentation. Malt and malt extracts used in the production of beer are not identified in the dietary guidelines as being of concern. The proposed amendment would have the effect of altering the regulatory status quo regarding 'no added sugars' labelling for beer without justification.

Lion has similar concerns regarding the proposed variation in relation to other fermented beverages, notably wine and fruit wine.

Lion further notes that the definition of 'added sugars' proposed in the CFS will have a wider impact than 'no added sugars' claims, since it will in effect determine the meaning of 'added sugars' for future regulatory proposals related to labelling added sugars in the NIP, specifically for P1058, Nutrition labelling about added sugars. While FSANZ advises that Proposal P1058 is not within the scope of P1062 for the purposes of the definition of 'added sugars', Lion's view is that not prescribing a single, consistent definition for the same ingredient or group of ingredients has the potential to create confusion for consumers and be unworkable for producers/manufacturers.

For that reason, it is particularly important to ensure that the definition of 'added sugars' is applied consistently to products of fermentation such as beer and wine.

Lion's responses to the questions in the CFS are set out in more detail below and we hope this will be of assistance to FSANZ.

Questions 1 and 2

Lion supports the principle that 'no added sugar' claim conditions are based on the addition of ingredients that are extrinsic to the food in question. This is the position that FSANZ has taken in

relation to fruit juice sold as fruit juice. Lion submits that the definition of 'added sugars' in the proposed variation does not apply this principle consistently to fermented alcoholic beverages such as beer and wine, and should be amended.

In Lion's view, the definition of 'added sugar' in the variation proposed in P1062 must exclude malt and malt extracts used in the production of beer. As Lion has explained in previous submissions on P1058 and P1049, malt and malt extract are the base ingredients for the production of beer. They are not 'added' to beer - beer is malt and malt extracts that have been fermented. There is no logical or consistent basis to treat malt and malt extracts used in the production of beer differently from fruit juice in product that is sold as fruit juice.

If anything, the case for not considering malt and malt extracts as 'added sugars' is stronger than the case for fruit juice, because the sugar content is almost entirely consumed in fermentation and beer is the product of the transformation of malt and /or malt extracts. Any remaining sugars in the final product after fermentation will be oligosaccharides (DP4-10) at levels less than 1 per cent (significantly less than the threshold for making a 'low sugar' claim which is 2.5 g/L - i.e. 2.5%).

If the policy intent is to align with the dietary guidelines, then defining malt and malt extracts used in the production of beer as 'added sugars' is not consistent with that policy intent. Malt and malt extracts used in the production of beer are not discussed in the dietary guidelines as being of public health concern in relation to sugar. The reasoning applied to processed vegetable products at 5.3 of the CFS should apply here also.

The CFS states that one of the key reasons for aligning the definition of 'added sugars' with the dietary guidelines is that consumers may not be supported to make informed choices and could be potentially misled if 'no added sugar(s)' claims are not aligned with dietary guidelines. It is also noted at 3.2.2 of the CFS that FSANZ's literature review showed that "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". If malt and malt extract used in the production of beer are considered to be added sugars, this would in fact be misleading because these are inherent to the nature of beer and they do not result in a significant increase in the sugar content of beer.

Lion believes that the proposed variation would change the status quo in terms of 'no added sugar' claims for beer. Lion's interpretation is that such claims are currently permitted. While FSANZ has expressed the view in the past that the original intent of allowing energy claims for alcoholic beverages was not to permit specific claims in relation to sugars, Standard 1.2.7 has been interpreted in practice by regulators in both New Zealand and Australia as allowing such claims to be made. This includes claims falling within the table to Schedule 4-3 (table entry dealing with "Sugar or sugars"). In Lion's interpretation, malt or malt extracts used for fermentation are not 'added' and therefore 'no added sugar' claims are currently permitted.

Lion submits that similar arguments would apply to the addition of grape juice or grape juice concentrate to wine, fruit juice or fruit juice concentrates to fruit wine, and permitted sugars used in the fermentation of either of these products. These products are simply grape juice / fruit products that have been fermented. The use of fermentable carbohydrates from these sources is not an 'addition', nor is it identified as a matter of concern in the dietary guidelines.

In conclusion, Lion believes that beer should not be prevented from making 'no added sugar' claims solely on the basis that it includes malt or malt extract as a base ingredient. Lion believes that similar considerations would apply to other fermented beverages such as wine and fruit wine. Consequently, Lion submits that the proposed definition of 'added sugars' in the CFS be amended to specifically

exclude carbohydrate sources used in the fermentation of alcoholic beverages for the purposes of both P1062 and future regulatory proposals related to labelling of added sugars in the NIP.

Questions 3 - 9

No Comments.

Question 10

Lion supports a three-year transition period for the implementation of any changes that come from this proposal to comply with new claim conditions. This aligns with the transition proposed for P1049.

Questions 11-13

Lion refers to the work done on carbohydrate and sugar claims made in relation to alcoholic beverages by FSANZ in the context of P1049. Lion also refers to the results of its own research that it included in its submission on P1049.

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]