

Response ID ANON-JN9Z-F8CH-M

Submitted to P1062 - Defining added sugars for claims
Submitted on 2023-10-05 14:13:28

Complete your submission

Your details

What is your name?

Contact person:

[REDACTED]

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?

Public health group

If other, please specify:

What is the name of your organisation?

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

Food for Health Alliance

What is your position title?

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

[REDACTED]

Are you the contact person for your organisation?

Yes

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:

Email address:

Telephone:

Position title:

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?:

STRONGLY DISAGREE

The Communique from the Food Ministers Meeting on 28th July 2023 noted that Food Ministers discussed:

- the incorporation of a definition of added sugars into the Food Standards Code as a matter of priority, to ensure added sugar claims align with dietary guidelines; and
- the identification of the best way to incorporate information about added sugars into the nutritional information panel and on front of package labelling, through appropriate consumer testing.

As part of a staged approach to delivering this work, P1062 does not adequately satisfy the above. It fails to establish a definition of added sugars that ensures relevant claims align with the Australian and New Zealand Dietary Guidelines, and it fails to establish a definition that can be used to quantify added sugars information into the nutritional information panel and for front of package labelling. This is because many of the food components that are necessary to enable these changes are not included in the proposed definition but are instead listed separately in the claim conditions or left out of the proposal entirely.

We acknowledge and support FSANZ in recognising the need to ensure consumers are not misled about the food components set out in the proposed claim conditions (a)(ii)-(ix). However, by not including them in the 'added sugars' definition itself, the utility of the definition is severely restricted, and the outcome undermines the intention of the Food Ministers, which was that a definition of 'added sugars' should be incorporated into the Food Standards Code (not a limited definition and clarifying claim conditions that result in unequal treatment of sugars) and that that definition of 'added sugars' should be the basis for including added sugar information in the nutritional information panel and in front of pack food labels – the proposal does not enable this.

We have two overarching concerns with P1062:

(1) The definition of added sugar is not comprehensive and not fit for purpose:

FSANZ acknowledges there are certain food components that consumers should not be misled about and therefore should not be eligible to carry a 'no added sugar' claim. We support this premise, however, failing to include the food components set out in claim conditions (a)(ii)-(ix) in the added sugar definition only perpetuates existing confusion about these food components and the health halo that surrounds them. It is also misaligned with the Food Ministers' intent as noted above.

With regards to the proposed conditions for 'no added sugar' claims, several food components are missing from claim conditions (a)(i)-(ix), these should be included in a definition of 'added sugars' for it to be comprehensive and fit for purpose. More detail on this is discussed in question 2 below.

P1062 was initiated in response to Food Ministers asking for work on P1058 to be staged. A definition of 'added sugars' must be fit for that purpose also, the proposed definition is not.

(2) That claim conditions are based on the addition of ingredients to foods – we do not agree with this approach:

'No added sugar' claims should not be permitted on single ingredient foods that, when added to other foods, would make that food ineligible to display a 'no added sugar' claim (i.e. on fruit juice). More detail on this is discussed in question 6 below.

This is inconsistent with FSANZ proposed claim condition (g) which clearly restricts claims on foods with sugars from processing, rather than solely from the addition to foods.

We strongly recommend that 'no added sugar' claim conditions should simply ensure that no food that:

- 1) contains 'added sugars' as defined*, OR
- 2) is an 'added sugars' as defined*, and is sold as a single ingredient food,

should be able to carry a 'no added sugar' claim.

*A comprehensive definition of 'added sugars' is attached in our additional comments as a mark-up to FSANZ proposed draft variation to the Food Standards Code.

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)?:

NOT SUPPORTIVE OF THIS APPROACH

A food displaying a 'no added sugar(s)' should simply not contain, or be, 'added sugars' as that term is defined in the Food Standards Code. A comprehensive definition of 'added sugar' is required for this purpose.

We do not support that these sugars need to be physically added as an ingredient for claim conditions to apply. Sugars that are created through processing (proposed claim condition (g)) are not physically added for example.

In addition, we strongly disagree with proposed claim condition (e) - foods for sale that are products listed in proposed claim conditions (e)(i)(A)-(H) should not be permitted to carry 'no added sugar' claims. See our response to question 6 for more details.

To be fit for purpose and meet the Food Ministers intent, claim condition (c), the definition of 'added sugars', must be comprehensive and include:

(1) all sugars listed in proposed claim conditions (c)(i)-(xii) of the draft variation to the Food Standards Code in CFS Attachment A with the following amendments:

(c)(i) For completeness we recommend that additional examples are added to the list of examples for claim condition (c)(i) in section 8 of the Draft Explanatory Statement as follows: lactose in whey powder, isomaltose, sugar alcohols.

(c)(iv) For completeness we recommend that additional examples are added to the 'including' list for claim condition (c)(iv) as follows: cane sugar, beet sugar, white sugar, granulated sugar, fruit sugar.

(c)(vii) For completeness we recommend that additional examples are added to list of examples for claim condition (c)(vii) as follows: high fructose corn syrup, tapioca syrup, maple syrup, rice and rice malt syrup.

(c)(xi)

- Fruit juice should always be considered an 'added sugars' and we do not agree that fruit juice should be able to carry a 'no added sugar' claim, the words 'unless the food for sale is fruit juice' should be removed from condition (c)(xi). See our response to question 6 for more details.

- We strongly recommend that the words 'and concentrated vegetable juices' are added to condition (c)(xi). In the background paper FSANZ put out for targeted stakeholder consultation on P1058 in September 2022, FSANZ themselves noted that concentrated vegetable juices contribute to mono- and disaccharides and recommended consistent treatment of concentrated fruit and vegetable juices, we do not think FSANZ should change its position on this, particularly given concentrated vegetable juices are already in the food supply and being used to sweeten foods. Excluding concentrated vegetable juices from the added sugar definition will only leave a loophole that will be exploited. Concentrated vegetable juices are widely acknowledged as sugars including by Public Health England in their 'free sugar' definition and by being declared as added sugars on the label as required by the US nutrition facts label final rule. See our additional comments under 'vegetable products' below.

(c)(xii) We strongly recommend that the words 'or vegetable juice' are added to condition (c)(xii) after the words 'deionised fruit juice'. Whilst deionised vegetable juice is not currently used in the food supply, excluding it from the definition will result in an opportunity for this exclusion to be exploited in future. See our additional comments under 'vegetable products' below.

(2) all sugars listed in proposed claim conditions (a)(ii)-(ix) of the draft variation to the Food Standards Code in CFS Attachment A

- we strongly recommend that Processed Dried Fruit are added to the list of fruit products. See our additional comments below under 'dried fruit'.

(3) the following additional sugars:

- concentrated vegetable juice (as noted in relation to (c)(xi) above).

- deionised vegetable juice (as noted in relation to (c)(xii) above).

- traditional dried fruit (whole, cut or chopped) and processed dried fruit. See our additional comments below under 'dried fruit'.

- canned fruit or frozen fruit that contains fruit juice - we do not support the exclusion in claim condition (a)(iii). Fruit juice should always be considered an added sugar.

- traditional and processed dried vegetables; vegetable juice powder; vegetable powder; vegetable pulp; vegetable puree; concentrated vegetable puree; a blend or combination of any two or more of the vegetable ingredients listed above or of the fruit products in claim conditions (a)(ii)-(ix) and the vegetable products listed. See our additional comments below under 'Vegetable products'.

- monosaccharides and disaccharides formed or residual from processing, including from hydrolysis and fermentation during the production of a food. See our response to question 7 for more detail.

- low energy sugars (monosaccharides and disaccharides) listed in subsection S11—2(3) of schedule 11. See our response to question 4 for more details.

VEGETABLE PRODUCTS

FSANZ considers processed vegetable products, such as vegetable juice, pulps or purées, should not be captured in the claim conditions as they are not discussed in the dietary guidelines as being of public health concern in relation to sugar. We strongly disagree that this is a rationale for their exclusion from a definition of 'added sugars'.

Dietary guidelines advise about dietary patterns and vegetable juice, dried vegetables and other vegetable products are not commonly consumed as a regular part of the diet. Vegetable juice for example is not highlighted as a substitute for fresh vegetables, and in limited amounts, as fruit juice is.

There is no technical or physiological reason to consider that sugar from fruit and vegetable products would be processed differently by the body and

they should therefore be treated the same as the same processes can be used to concentrate the sugars in them. In FSANZ background paper to P1058 it was consistently recognised that fruits and vegetables should be treated the same and the acknowledgment in P1062 that fruit products are sugars should extend to the equivalent vegetable products. This is consistent with other jurisdictional determinations such as Public Health England (1) and the US Food and Drug Administration (2).

Failure to include vegetable products would see the growth of high sugar vegetable products such as beet juice concentrate which is already in the food supply for the purposes of sweetening. It will create a significant loophole that manufacturers can exploit, enabling them to put 'no added sugar' claims on foods sweetened with the sugar from concentrated vegetable sources. This undermines the effect of this proposal and the intent of Ministers.

We note that internationally industry have already begun to do this in jurisdictions where vegetables products are excluded from added sugar labelling requirements. See this example of jicama juice concentrate: Kerr Concentrates - Jicama.pdf (kerrbyingredion.com) which is advertised as follows: "Make product labels more appealing in the face of changing sugar labeling regulations." This vegetable product is made from 100% vegetable, has a 'flavor profile close to apple and pear juice concentrates' and is 56g sugars/100g. Vegetable juice concentrate is also being made from butternut squash, cauliflower, celery, cucumber, kale, orange carrot, purple carrot, onion, pumpkin, red bell pepper, yellow bell pepper and sweet corn by this company alone.

(1) Swan GE, Powell NA, Knowles BL, Bush MT, Levy LB. A definition of free sugars for the UK. Public Health Nutr. 2018;21(9):1636–8.

(2) Food and Drug Administration. Added Sugars: Now Listed on the Nutrition Facts Label and How Are They Different. New Nutr Facts Label [Internet]. 2020;1–3 [cited 2022 Oct 11]. Available from: <https://www.fda.gov/food/new-nutrition-facts-label/added-sugars-new-nutrition-facts-label>.

DRIED FRUIT

We strongly recommend that clear and precise definitions of both 'traditional dried fruit (whole, cut or chopped)' and 'Processed Dried Fruit' are included in the Food Standards Code.

PROCESSED DRIED FRUIT

Across the food supply, there are now several products on the market that do not represent traditional dried fruit products. These include 100% fruit straps, fruit bites and baked fruit pieces, these are sold individually but also used as fruit centres in breakfast cereals and snack bars.

While these Processed Dried Fruits are technically 100% fruit and therefore eligible to carry 'no added sugar' claims under the proposed changes. These products are highly processed and contain higher levels of sugar than both whole fruit and traditionally dried fruit, a definition of 'added sugars' should specifically include these Processed Dried Fruits' and ensure that they cannot carry 'no added sugar' claims when sold as single ingredient foods.

A definition of Processed Dried Fruit should include traditional dried fruits that have been (a) infused with other sugars (i.e. cranberries), (b) candied, (c) further processed in addition to drying (i.e., extreme heating, sieving, pressing all of which further reduces their nutrient composition and further concentrates their sugar content), and (d) fruits that have been freeze-dried, snap-dried or have undergone any other drying process that results in a powdery textured Processed Dried Fruit piece.

Processed Dried Fruit contains appreciable amounts of free sugars and dental advice is that these should be avoided in the diet (2). The World Health Organization European Region in their Nutrient and Promotion Profile Model for foods for children under 36 months of age considers many Processed Dried Fruit products of this nature to be 'confectionary' (1).

The New Zealand dietary guidelines in Eating Statement 2 recommend that consumers 'choose and or prepare foods that are mostly 'whole' and 'less processed'. These guidelines provide further information on processing and note that processed foods 'are very different from their natural state'. Ensuring Processed Dried Fruits are included in the 'added sugars' definition and cannot carry 'no added sugar' claims when sold as single ingredient foods would be consistent with those recommendations.

TRADITIONAL DRIED FRUIT

There is mixed evidence on the health impacts and benefits of traditional dried fruit. We feel it important to take a precautionary approach and include traditional dried fruit in a comprehensive added sugars definition.

This aligns with dietary guideline recommendations in Australia and New Zealand which recommend these are limited in the diet, due to their very high sugar content and the ease with which they can be overconsumed. Dried fruit should be considered in the complete context of the New Zealand dietary guidelines which note that dried fruits are high in sugar and that whilst some nutrients are left behind it is in the context that most of the water is removed, and the sugar is concentrated. Further, the guidelines note that without the water it can be easier to eat numerous pieces at one time, so it becomes a very high-sugar snack, sticks easily to teeth, and increases the risk of cavities.

The implicit message for consumers by excluding dried fruits from the 'added sugars' definition and claim conditions, despite its high sugar content, is that dried fruits are equivalent to whole fruits when they are not. In addition to the confusing and misleading outcomes of the definition itself, this will enable industry to label and promote products high in sugar with 'no added sugar' and related claims, despite the high sugar content of these food components. This would further confuse and mislead consumers about the nutritional value of dried fruits.

(1) Moynihan, P., Makino, Y., Petersen, P. E., & Ogawa, H. (2018). Implications of WHO Guideline on Sugars for dental health professionals. Community

(2) Nutrient and promotion profile model: supporting appropriate promotion of food products for infants and young children 6–36 months in the WHO European Region. Copenhagen: WHO Regional Office for Europe; 2022. Licence: CC BY-NC-SA 3.0 IGO.

For clarity we attach a mark-up of the draft variation to the Australia New Zealand Food Standards Code proposed by FSANZ in the CFS for P1062. The changes in our mark-up result in claim conditions that ensure there is a comprehensive definition of 'added sugars' and that 'no added sugar' claims are not misleading or inconsistent with dietary guidelines.

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?:

We support that foods containing D-tagatose should not be eligible to carry 'no added sugar' or 'unsweetened' claims. However, we do not agree that this should be:

- limited to a single low energy sugar, D-tagatose, it should extend to all low energy sugars.
- noted as a separate claim condition.

D-tagatose and all other low energy sugars (monosaccharides and disaccharides) listed in subsection S11—2(3) of schedule 11, should be included in the definition of 'added sugars' in claim condition (c).

Low energy sugars contribute to energy in the diet. They can be twice as sweet as sucrose and have similar technical properties to traditional sugars. Allowing products that contain these ingredients to carry 'no added sugar' claims is misleading.

To date there is one low energy sugar permitted for use in Australia/New Zealand, D-tagatose, however there is already another under application and the 'added sugar' definition should be drafted to capture any new low energy sugars that enter the market. If these are excluded from the definition, it is likely more low energy sugars will be added to the market over time, particularly as food companies will likely replace traditional sugars with these low energy sugars to add sweetness to foods and enabling them to put 'no added sugar' claims on products containing these ingredients.

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?:

We support this approach, however, there should be consistency between 'no added sugar' and 'unsweetened' claims and accordingly, low energy sugars (monosaccharides and disaccharides) listed in subsection S11—2(3) of schedule 11, should be in the 'added sugar' definition and no foods containing low energy sugars should be permitted to make 'no added sugar' claims. See our response to question 3 above.

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?:

We STRONGLY AGREE that a food containing the fruit products listed should not be permitted to carry a 'no added sugar' claim and STRONGLY RECOMMEND that the vegetable equivalents are treated the same, see our response to question 2. However, we STRONGLY DISAGREE with the mechanism for this.

All food components listed in claim conditions (a)(ii)-(ix), and their vegetable equivalents, should be included in the 'added sugars' definition in claim condition (a)(i) and NOT as separate components for the purpose of the claims criteria, as currently proposed. Please see our response to question 1 for more details on why this is necessary.

Across the food supply, it is observed that foods containing fruit and vegetable sugars are more likely to use 'no added sugar' claims than those that do not contain these sugars. Some of the highest categories for claims use include fruit/vegetable purees, fruit/vegetable bites, fruit/vegetable straps and pressed fruit/vegetable products, and baby and toddler foods.

In relation to fruit juice specifically:

- we strongly recommend that any reference to fruit juice should clearly state this includes blended, reconstituted, full strength and diluted juices
- we strongly disagree that canned and frozen fruit with added fruit juice should be able to make 'no added sugar' claims. Fruit juice in any form should not be permitted to carry a 'no added sugar' claim.

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?:

STRONGLY DISAGREE

Allowing fruit products to carry a 'no added sugar' claim when sold as single-ingredient foods but disallowing other products from making the same claim when these fruit products are added to them, gives these foods a health halo and perpetuates consumer beliefs that these fruit products are healthier than they are. It is also inconsistent with both Australian and New Zealand dietary guidelines which recommend limiting fruit juice consumption.

In addition, allowing fruit products to carry 'no added sugar' claims undermines the intention of Ministers. The intention of the work underpinning this Proposal is that consumers should have information to enable them to make informed choices in support of dietary guidelines and should not confuse or mislead consumers. Allowing fruit products to carry 'no added sugar' claims will do the exact opposite (as shown by the Consumer Evidence Summary FSANZ prepared (see below).

FSANZ has acknowledged that these fruit products are sugars by including claim conditions that ensure that 'no added sugar' claims cannot be made on foods that contain these fruit products. Allowing these fruit products when sold as standalone products to carry a 'no added sugar' claim despite those products themselves being a sugar is non-sensical. It will also result in inconsistencies for consumers, for example a fruit strap made from 100% dried fruit can make a claim, but another type of product such as a protein bar made substantially with dried fruit but with also nuts cannot (despite being lower in sugar given the addition of nuts).

As highlighted in FSANZ Systemic Literature Review for P1058 – Nutrition Labelling About Added Sugars: "health halos ... already exist around sugar originating from fruit, which is often perceived as healthier than other sugar sources" (see page 48 of that report). Allowing 'no added sugar' claims on fruit products like juice, purees and processed dried fruit will perpetuate consumer misunderstanding about sugars in these fruit products.

This proposal is also inconsistent with the key outcomes of the FSANZ Consumer Evidence Summary on no added sugar claims which states:

- 'No added sugar' claims appear to modify consumer perceptions of the food products they are applied to in terms of healthfulness, naturalness and taste. The majority of studies looking at healthfulness perceptions indicate that 'no added sugar' claims increase how healthy consumers perceive food products to be."

- 'No added sugar' claims were found to have an influence on purchasing decisions in studies relating to toddler and infant foods, fruit beverages and fruit juices."

FSANZ own evidence summary clearly shows that allowing 'no added sugar' claims on single-ingredient fruit products will increase how healthy consumers perceive these food products to be. This is most relevant for fruit juice, fruit puree and processed dried fruit as the other fruit products (fruit juice powder; fruit powder; fruit pulp and concentrated fruit purée are rarely and/or unlikely to be sold as single ingredient foods). This misinformation is in direct conflict with dietary guideline recommendations that people only consume fruit juice and dried fruit occasionally and in small amounts as these claims perpetuate beliefs that these foods are healthier than they are.

We note that manufactures are still able to convey the nature of their products to consumers without misleading them in relation to sugar content for example 100% honey or 100% orange juice claims will still be permitted on pack.

FRUIT JUICE

Fruit juices are frequently sold in package sizes of 500mL intended for individual consumption in a single occasion, suggesting that Australians are not consuming fruit juice in line with the Australian Dietary Guidelines - that is, fruit juice be consumed occasionally, in small amounts (i.e. 125mL or half a cup), where fresh, frozen or tinned fruit supply is suboptimal. Despite the assertions of fruit juice producers, this limited concession does not constitute a recommendation for most Australians to drink fruit juice. Consumers often think of juice as a healthy alternative to sugar-sweetened beverages like soft drinks and energy drinks (4), despite containing similar sugar levels. It is time for fruit juice to lose its health halo. Prohibiting these products from voluntarily displaying 'no added sugar' claims can help to reduce the risk of consumers being misled into thinking these juices are nutritionally equivalent to whole fruit.

The Australian dietary guidelines clearly state that fruit should be mostly consumed fresh, and the New Zealand dietary guidelines clearly state fruit juice is a major source of added sugar. The intent of the dietary guidelines is clear - fruit juice should be limited in the diet.

'No added sugar' claims on fruit juice would also be wholly inconsistent with the New Zealand dietary guidelines which state: "Sugary drinks include fruit juice, fruit drinks, powdered drinks, cordial, carbonated or fizzy drinks, energy drinks, sports drinks and flavoured waters." It is not appropriate to have 'no added sugar' claims on other sugary drinks, like fizzy drinks, and they also do not belong on sugary drinks like fruit juice. The New Zealand dietary guidelines go on to clearly call out that fruit juice a major source of added sugars in New Zealanders' diets. Allowing fruit juice to carry a 'no added sugar' claim would be inconsistent with the intent of these guidelines and would not enable consumers to make choices in line with them.

FSANZ Consumer Evidence Summary highlights how influential 'no added sugar' claims are in relation to fruit juice in particular, noting in relation to specific studies:

"These results suggest that 'no added sugar' is important in driving purchases for fruit juices and is relatively more important than other information about juice processing and formulation." (see page 21, FSANZ Consumer Evidence Summary)

“For fruit juice, ‘no added sugar’ was the most influential factor when compared with other information about juice processing or formulation.” (see page 22, FSANZ Consumer Evidence Summary)

FSANZ Literature review on consumer knowledge, attitudes and behaviours relating to sugars and food labelling (Literature review on consumer knowledge, attitudes and behaviours relating to sugars and food labelling (foodstandards.gov.au)) notes that there is some evidence that consumers underestimate the sugar content of beverages containing fruit, with key points in that paper noting:

“Consumers understanding of the sugar content of beverages containing fruit may be poorer than for other beverages. One study found that consumers tend to underestimate the sugar content of beverages containing fruit (but do not underestimate the sugar content of carbonated beverages). Another study found that around a quarter of consumers do not believe that 100% fruit juice contains naturally occurring sugar.

Consumers believe that beverages containing fruit are healthier than beverages with a similar sugar content that do not contain fruit.

Consumers’ perceptions of fruit beverages may be related to consumers’ beliefs that fruit is healthy and/or the belief (reported in section 2) that the sugar in fruit is less fattening than sugar in other foods.”

Further studies show that many consumers equate juices to fruit consumption (1), (2), believe that fruit juices have less sugar than sugar sweetened beverages (3) and that fruit juice is healthier than soda (4). Allowing ‘no added sugar’ claims will continue to misinform consumers about the healthiness of juice and its place in the diet.

(1) Brownbill A, Braunack-Mayer A, Miller C. What makes a beverage healthy? A qualitative study of young adults’ conceptualisation of sugar-containing beverage healthfulness. *Appetite*. 1 July 2020. 50:104675. <https://doi.org/10.1016/j.appet.2020.104675>

(2) Miller C, Braunack-Mayer A, Wakefield M, Roder D, O’Dea K, Dono J, Ettridge K. “When we were young, it really was a treat; now sugar is just the norm every day” - A qualitative study of parents’ and young adults’ perceptions and consumption of sugary drinks. *Health Promotion Journal of Australia*. Jan 2020. 31(1):47-57. 10.1002/hpja.257

(3) Miller C, Wakefield M, Braunack-Mayer A, Roder D, O’Dea K, Ettridge K, Dono J. Who drinks sugar sweetened beverages and juice? An Australian population study of behaviour, awareness and attitudes. *BMC Obesity*. Jan 2019. 6:1. <https://doi.org/10.1186/s40608-018-0224-2>

(4) Miller C, Ettridge K, Wakefield M, Pettigrew S, Coveney J, Roder D, Durkin S, Wittert G, Martin J, Dono J. An In-Depth Exploration of Knowledge and Beliefs Associated with Soda and Diet Soda Consumption. *Nutrients*. Sept 2020. 12, 2841. <https://doi.org/10.3390/nu12092841>

FRUIT PUREE

Data from a recent study of infant and toddler foods showed that 68% of fruit purees products carry ‘no added sugar’ claims (1). All of these products have 30% or more total sugar (% energy) and would be required to carry a front of pack high sugar flag under World Health Organization European Office recommendations (1),(2).

Data from a study of pouch purees for infants (less than 12 months) showed that 50% of fruit puree only pouches have a ‘no added sugar’ claim on the front-of-pack. These products have an average serve size of 120g (3). The Australian Dietary Guidelines recommend a serve size of 20g for fruit for infants (7-12 months) and that infants only consume ½ a serve 3-4 times a week. The average fruit puree pouch is the equivalent of three weeks of fruit intake for an infant.

Fruit purees for infants are typically packaged in pouches with a spout. The combination of the high sugar content combined with the convenience of sucking these foods directly from the pouches and the very large serve size, can result in a higher energy and sugar intake in a shorter time frame when compared to chewing and swallowing pieces of solid foods or serving pureed foods with a spoon (4). Sucking foods directly from a spout may also have an impact on appetite regulation as chewing is an essential indicator for satiety and may impact the ability to recognise hunger and satiety cues which may promote overconsumption (4), (5).

Allowing products like these to continue carrying ‘no added sugar’ claims is misleading given the high sugar content of these products. It is also inconsistent with dietary guidelines given the excessive size of the products. Research shows that ‘no added sugar’ claims are influential, with 91% of parents in a recent survey stating they are likely to be influenced by ‘no added sugar’ claims on ready-made baby and toddler foods, this is significantly more likely amongst parents of infants and/or toddlers who had a lower compared to higher level of education (6).

We note FSANZ’s comment that the dietary guidelines specifically recommend purees for infants. This recommendation is in relation to the form in which infants needs to consume their first complementary foods and is not an endorsement that these foods should be eaten in excess or marketed with ‘no added sugar’ claims. Marketing these foods in a manner which implies they are better for health than they are is contrary to dietary guideline recommendations. Manufacturers will still be able to convey to caregivers that there is nothing in the product other than puree, by the mandatory ingredients list.

(1) See research memo entitled ‘Research memo_Sugar content of infant and toddler foods that carry ‘no added sugar’ claims’ attached under Additional Comments.

(2) Nutrient and promotion profile model: supporting appropriate promotion of food products for infants and young children 6–36 months in the WHO European Region. Copenhagen: WHO Regional Office for Europe; 2022. Licence: CC BY-NC-SA 3.0 IGO.

- (3) Brunacci KA, Salmon L, McCann J, Gribble K, Fleming CAK. The big squeeze: a product content and labelling analysis of ready-to-use complementary infant food pouches in Australia. BMC Public Health. 2023 Apr 6;23(1):656. doi: 10.1186/s12889-023-15492-3. PMID: 37024884; PMCID: PMC10077707.
- (4) Koletzko B, Bührer C, Ensenauer R, Jochum F, Kalhoff H, Lawrenz B, et al. Complementary foods in baby food pouches: position statement from the Nutrition Commission of the German Society for Pediatrics and Adolescent Medicine (DGKJ, eV). Mol Cell Pediatr. 2019;6(1):1–5.
- (5) Netting, M. J., Moumin, N. A., Knight, E. J., Golley, R. K., Makrides, M., & Green, T. J. (2022). The Australian feeding infants and toddler study (OzFITS 2021): breastfeeding and early feeding practices. Nutrients, 14(1), 206.
- (6) The Royal Children's Hospital National Child Health Poll (2022). Ready-made baby food: do parents know the facts? Poll number 24. Royal Children's Hospital, Parkville, Victoria.

PROCESSED DRIED FRUIT

The current proposal would enable Processed Dried Fruit products which are extremely high in sugar to continue to carry 'no added sugar' claims. Many of these products have undergone significant processing - heating, macerating, pressing, drying - and the sugars are highly concentrated. This is misleading and will not enable consumers to make choices in line with dietary guidelines.

Examples include:

100% Sub Valley True Fruit Tropical Fruit Salad bars, 59.3% sugar Sun Valley True Fruit Bars 100% Tropical Fruit Nas 6 Pack | Woolworths

Frisp Strawberry Crisps, 73% sugar Frisp Strawberry Crisps 15G | Woolworths

Bellamy's Organic Apple Snacks, 51% sugar Bellamy's Organic Organic Apple Snacks Apple 20G | Woolworths

Nibblish Vitality Bites, 67% sugar Nibblish Vitality Bites Pineapple & Passionfruit 50g | Woolworths

In their Communique following their July 2023 meeting, Food Ministers specifically noted the Policy Guideline on Food Labelling to Support Consumers to Make Informed Healthy Choices which they endorsed in 2020. This guideline states that "information that supports consumers to apply the recommendations in Dietary Guidelines should be provided on food labels in a format which: does not promote consumption of foods inconsistent with the dietary guidelines and takes into account the nutritional content of the whole food ... so as not to mislead consumers". Allowing 'no added sugar' claims on fruit juice that is in serve sizes well in excess of dietary guidelines and on fruit purees for babies that are high in sugar and are in portions well in excess of recommended dietary guidelines is inconsistent with this guideline. It will promote consumption of foods inconsistent with the dietary guidelines and does not take into account the nutritional content of the whole food.

We support the FSANZ proposal that legumes, fungi, herbs, nuts and spices should not be considered fruits for any definition of added sugar or for 'no added sugar' claim conditions.

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?:

We support FSANZ's proposal that foods containing sugars from hydrolysis should not be permitted to make 'no added sugar' claims, however, we do not support:

(1) the exclusion of other processing techniques from this definition: We recommend FSANZ adopt a forward-thinking approach for sugars that are produced by processing methods and include all sugars that are produced or residual as a result of any processing method which results in the end product containing more sugars than the original raw ingredients. This should be drafted to capture any existing and new processing techniques, including hydrolysis and fermentation. This would ensure a consistent approach to sugars that are the result of processing and ensure new processes are captured and that 'no added sugar' labelling remains both current and future proofed.

(2) the exemption for products that contain less than $\leq 1.5\%$ sugars: We do not support the exemption for foods containing $\leq 1.5\%$ sugars - any food containing sugars should not be permitted to carry a 'no added sugars' claim. We do not think a threshold to 'level the playing field' between milk alternatives is appropriate. Consumers should be able to rely on a 'no added sugar' claim meaning that there are no added sugars in a product.

(3) that sugars from hydrolysis are treated differently to other 'added sugars' - these sugars should be 'added sugars' as defined: The sugars resulting from processing should simply be included in the definition of 'added sugars' not set out in a separate claim condition. A food displaying a 'no added sugar(s)' should simply not contain, or be, 'added sugars'. A comprehensive definition of 'added sugar' is required.

The drafting should clarify that 'hydrolysis' specifically includes lactose hydrolysis.

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?:

Strongly supportive.

We note that all proposed amendments to the 'added sugars' definition and 'no added sugar' claim conditions in our submission should apply for 'unsweetened' claims also.

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?:

STRONGLY SUPPORT the position that a product containing sweeteners should continue to be unable to carry an 'unsweetened' claim.

STRONGLY DISAGREE with the terminology used. The phrase "intense sweeteners" is not defined in the Foods Standards Code nor consistently in literature and does not capture all sweeteners used in the food supply.

The terminology "non-sugar sweetener" should be used instead and a definition added to the Food Standards Code as per the World Health Organization definition of this term. This would ensure all low and non-calorie sweeteners are captured within the definition, many of which are used in the food supply to sweeten foods and should accordingly trigger a condition that no 'unsweetened' claims can be on products that contain them. These low and non-calorie sweeteners include acesulfame K, aspartame, advantame, cyclamates, neotame, saccharin, sucralose, stevia and stevia derivatives.

The World Health Organization recently released an evidence-informed guidance on the use of non-sugar sweeteners recommending that non-sugar sweeteners should not be used as a means of achieving weight control or reducing the risk of noncommunicable diseases. The World Health Organization guidance specifically noted that "evidence suggests that some consumers may not be aware that many of the food and beverages they are purchasing contain [non-sugar sweeteners], and generally may have difficulties interpreting nutrient declaration labels, health claims and other relevant labelling" (1). Allowing foods that contain non-sugar sweeteners to carry an 'unsweetened' claim would enable these products to carry a claim that gives them a 'health halo' that is misaligned with the science. FSANZ should take this opportunity to align the Food Standards Code with more accurate terminology to ensure this is not the case.

(1) Use of non-sugar sweeteners: WHO guideline. Geneva: World Health Organization; 2023. Licence: CC BY-NC-SA 3.0 IGO.

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?:

Very Supportive.

A two-year transition period is consistent with previous mandatory labelling changes and with FSANZ cost modelling on a reasonable period to enable industry to update labels within the normal cycle of label updates.

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)?

Yes

If yes, please upload your file here.:
P1062 Question 11 .pdf was 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)?

Yes

If yes, please upload your file here.:
P1062 Question 12 (1).pdf was 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:

Please see attached which contains:

- FHA Mark-up of proposed variation to Food Standards Code to ensure added sugar definition is comprehensive and fit for purpose (referred to in our response to Question 1)

- Research Memo: Shape of Australia survey 2022_Claims on labels (referred to in our response to Question 12)

- Research Memo: Sugar content of infant and toddler foods that carry 'no added sugar' claims (referred to in our response to Questions 6 and 11)

- Research Insights Report: RCH National Child Health Poll (referred to in our response to Question 12)

Please upload additional files here.:

FHA P1062 Attachment 4 documents incl..pdf was uploaded

Feedback

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

Unsatisfied

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

Yes

If yes, please provide details.:

The platform does not allow for any formatting which makes multi-layered responses very difficult,

There should be an option to upload more than one pdf for each question where information can be provided.

P1062 – Question 11

7.9% of products (n=125) in the dairy yoghurts category carried no added sugar claims, Illawarra area of NSW, 2020 (1)

On sugar-containing beverages in South Australian supermarkets in 2016, 31.7% (n=300) products contained no added sugar claims. Additionally, 7.9% (n=75) carried Naturally sweetened/sugar from fruit claims and 0.3% (n=3) carried unsweetened claims. (2)

On ready-to-use infant food pouches in Sydney retailers (supermarkets, chemists and department stores) in 2019, 59% (n=164) carried no added sugar claims, and the proportion was higher in products aimed at younger ages (e.g. 70% of those aimed at 4 month olds, 72% of those aimed at 6 month olds). (3)

On infant and toddler foods available in South Australian supermarkets in 2019 (n=282), 55% carried a 'no added sugar' claim, and 13% referred to containing 'natural sugar' or sugar from fruit and/or vegetables. (4)

A recent study of infant and toddler foods in Australia found that 50% carry 'no added sugar' claims. 93% of the products with a 'no added sugar' claims contained 'free sugars' when applying the Public Health of England's 'free sugars' definition (5).

1. Wadhwa S-RS, McMahon AT, Neale EP. A Cross-Sectional Audit of Nutrition and Health Claims on Dairy Yoghurts in Supermarkets of the Illawarra Region of New South Wales, Australia. *Nutrients*. 2021;13(6):1835.
2. Brownbill AL, Miller CL, Braunack-Mayer AJ. Industry use of 'better-for-you' features on labels of sugar-containing beverages. *Public Health Nutrition*. 2018;21(18):3335-43.
3. Brunacci KA, Salmon L, McCann J, Gribble K, Fleming CAK. The big squeeze: a product content and labelling analysis of ready-to-use complementary infant food pouches in Australia. *BMC public health*. 2023;23(1):656-.
4. Simmonds L, Brownbill AL, Zee A, Netting MJ. Health-related marketing messages on product labels of commercial infant and toddler food packaging in Australia: a cross-sectional audit. *BMJ paediatrics open*. 2021;5(1):e001241.
5. See research memo entitled 'Research memo_Sugar content of infant and toddler foods that carry 'no added sugar' claims' attached under Additional Comments.

P1062 Question 12

91% of parents are likely to be influenced by 'no added sugar' claims on ready-made baby and toddler foods https://rchpoll.org.au/wp-content/uploads/2022/04/NCHP24-Poll-report-A4_FA_WEB.pdf. Parents of infants and/or toddlers who had a lower compared to higher level of education were significantly more likely to report being at least somewhat likely to be affected by 'no added sugar' claims. 92% of parents agree there should be laws about nutritional claims made about products for babies and toddlers (like 'no added sugar'). See attached ' RCH National Child Health Poll_ Research insights Report Three' pdf attached under additional comments

92% of adult Australians in Cancer Council Victoria's 2022 Shape of Australia said 'no added sugar' were somewhat to extremely likely to be perceived as indicative of health benefits. See attached pdf: 'Shape of Australia survey 2022_Claims on labels' attached under additional comments

In relation to alcoholic beverages, 56% of adults said a 'no added sugar' claim on an alcoholic beverage meant it was better for health and 37.6% of adults indicated that 'no added sugar' claims would influence them to buy an alcoholic drink. See attached pdf: 'Shape of Australia survey 2022_Claims on labels' attached under additional comments

PH&C mark-up of P1062 draft variation of the Australia New Zealand Food Standards Code

The following changes to the draft variation proposed by FSANZ in P1062 will ensure the added sugars definition is comprehensive and 'no added sugar' claims are not misleading.

'No added sugar' claim conditions should simply ensure that no food that:

- 1) contains 'added sugars' as defined in claim provision (b) below; OR
- 2) is an 'added sugar' as defined in claim provision (b) below and is sold as a single ingredient food,

should be able to carry a 'no added sugar' claim.

Claim provision	Amendments to No added sugar claim conditions
(a)	The food for sale does not contain any of the following as an added ingredient <u>added sugars</u> ;
(a)(i)	added sugars;
(a)(ii)	dried fruit other than whole, cut or chopped dried fruit;
(a)(iii)	fruit juice (other than concentrated fruit juice), unless the food for sale is canned fruit or frozen fruit;
(a)(iv)	fruit juice powder;
(a)(v)	fruit powder;
(a)(vi)	fruit pulp;
(a)(vii)	fruit purée;
(a)(viii)	concentrated fruit purée;
(a)(ix)	a blend or combination of any two or more ingredients listed above.
(b)	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).
<u>(b)</u>	For the purposes of condition (a) and <u>(b)</u> , added sugars means any of the following derived from any source:
<u>(b)(i)</u>	hexose monosaccharides and disaccharides; <u>Note: For completeness we recommend that additional examples are added to the list of examples for condition (c)(i) (now (b)(i)) in section 8 of the Explanatory Statement as follows: lactose in whey powder, isomaltose, sugar alcohols.</u>
<u>(b)(ii)</u>	starch hydrolysate;
<u>(b)(iii)</u>	glucose syrup, maltodextrin and similar products;
<u>(b)(iv)</u>	a product derived at a sugar refinery (including brown sugar, molasses, raw sugar, golden syrup, treacle, <u>cane sugar, beet sugar, white sugar, granulated sugar, fruit sugar</u>);
<u>(b)(v)</u>	icing sugar;
<u>(b)(vi)</u>	invert sugar;
<u>(b)(vii)</u>	sugar and sugar syrup derived from plants; <u>Note: For completeness we recommend that additional examples are added to list of examples for condition (c)(vii) (now (b)(vii) in section 8</u>

	<u>of the Explanatory Statement as follows: <i>high fructose corn syrup, tapioca syrup, maple syrup, rice and rice malt syrup.</i></u>
(b)(viii)	honey;
(b)(ix)	malt;
(b)(x)	malt extracts;
(b)(xi)	concentrated fruit <u>or vegetable</u> juice, unless the food for sale is fruit juice;
(b)(xii)	deionised fruit <u>or vegetable</u> juice.
(b)(xiii)	<u>traditional dried fruit or vegetables (whole, cut or chopped);</u>
(b)(xiv)	<u>processed dried fruit or vegetables (all dried fruit or vegetables other than those under (b)(xiii) above;</u>
(b)(xv)	<u>fruit or vegetable juice (including blended, reconstituted, full strength and diluted juices);</u>
(b)(xvi)	<u>fruit or vegetable juice powder;</u>
(b)(xvii)	<u>fruit or vegetable powder;</u>
(b)(xviii)	<u>fruit or vegetable pulp;</u>
(b)(xxi)	<u>fruit or vegetable purée;</u>
(b)(xxii)	<u>concentrated fruit or vegetable purée;</u>
(b)(xxiii)	<u>monosaccharides and disaccharides formed or residual from processing, including from hydrolysis and fermentation during the production of a food.</u>
(b)(xxiv)	<u>low energy sugars (monosaccharides and disaccharides) listed in subsection S11—2(3) of schedule 11.</u>
(c)	<u>The food for sale is not a blend or combination of any two or more ingredients listed in sub-paragraphs (i) to (xxii) of condition (b).</u>
(d)	For the purposes of conditions (a) <u>and</u> , (b) and (e) , an ingredient includes an ingredient of a *compound ingredient.
(e)	Condition (a) does not apply <u>es</u> to a food for sale that <u>is itself an added sugars. ÷</u>
(e)(i)	<u>is one of the following products:</u>
(e)(i)(A)	<u>added sugars;</u>
(e)(i)(B)	<u>dried fruit;</u>
(e)(i)(C)	<u>fruit juice;</u>
(e)(i)(D)	<u>fruit juice powder;</u>
(e)(i)(E)	<u>fruit powder;</u>
(e)(i)(F)	<u>fruit pulp;</u>
(e)(i)(G)	<u>fruit purée;</u>
(e)(i)(H)	<u>concentrated fruit purée;</u>
	<u>AND</u>
(e)(ii)	<u>does not contain as an added ingredient any other product listed in sub-paragraph (i).</u>
(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)	<u>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.</u>
(h)	<u>Condition (g) does not apply if:</u>
(h)(i)	<u>the food for sale is a cereal—based plant milk manufactured using hydrolysis of carbohydrates; AND</u>

(h)(ii)	the concentration of hexose monosaccharides and disaccharides in that food is not > 1.5%.
(g)	Any of the following is not fruit for the purposes of conditions (a), (be) and (e): legumes; fungi; herbs; nuts, spices; seeds.
Claim provision	Amendments to Unsweetened claim conditions
(a)	The food meets the conditions for a nutrition content claim about no added sugar.
(b)	The food contains no non-sugar intense sweeteners, <u>including but not limited to</u> sorbitol, mannitol, glycerol, xylitol, isomalt, maltitol syrup, or lactitol, <u>acesulfame K, aspartame, advantame, cyclamates, neotame, saccharin, sucralose, stevia and stevia derivatives.</u>
(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).