

VicHealth response to FSANZ P1062 – Defining added sugar for claims

Consultation paper: [Call for submissions report P1062.pdf](#)

## **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.**

VicHealth does not support 'no added sugar' claims be based on the addition of ingredients to foods. Instead, we strongly support the view that 'no added sugar' claim conditions, based on an agreed definition, should simply ensure that no food that:

- contains 'added sugars' OR
  - is an 'added sugar' and is sold as a single ingredient food,
- should be able to carry a 'no added sugar' claim.

This is based on the Communique from the Food Ministers Meeting on 28th July 2023 which 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 nutrition information panel (NIP) and on front of package labelling, through appropriate consumer testing.

The overarching concerns that VicHealth has with proposal P1062 are:

1. *The definition of added sugar is not comprehensive and not fit for purpose.* Consumers should be enabled to make informed choices about the food they consume and be provided clear guidance on the added sugar in these products. However, failing to include certain 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. Further, the proposed conditions for 'no added sugar' claims miss a number of food components from claim conditions.

2. *That claim conditions are based on the addition of ingredients to foods.*

This is not supported on the basis that 'no added sugar' claims should not be permitted on single ingredient foods. This is inconsistent with draft claim condition (g) which clearly restricts claims on foods with sugars from processing, rather than solely from the addition to foods.

Proposal P1062 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 NIP and for front of package labelling. 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.

**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 to define 'added sugars' for the purpose of 'no added sugar(s)' claim conditions to mean the following derived from any source:**

- hexose monosaccharides and disaccharides;
- starch hydrolysate;
- glucose syrups, 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, unless the food for sale is fruit juice; and**
- deionised fruit juice.

VicHealth does not support this approach. We do not support that sugars need to be physically added as an ingredient for claim conditions to apply. For example, sugars that are created through processing should still be defined as sugars.

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

*Our recommendation for a comprehensive definition of added sugars includes:*

Additional examples to be added to the list of examples for condition (c):

- (i) lactose in whey powder, isomaltose, sugar alcohols
- (iv) cane sugar, beet sugar, white sugar, granulated sugar, fruit sugar,
- (vii) high fructose corn syrup, tapioca syrup, maple syrup, rice and rice malt syrup

And the following additional sugars:

- Concentrated vegetable juice – see additional comments below.
- Deionised vegetable juice
- Whole, cut or chopped dried fruit – we do not support the exclusion in condition (a)(iii). Fruit juice should always be considered an added sugar.
- vegetable juice powder; vegetable powder; vegetable pulp; vegetable puree; concentrated vegetable puree; a blend or combination of any two or more of the fruit or vegetable ingredients listed above.
- monosaccharides and disaccharides formed or residual from processing, including from hydrolysis and fermentation during the production of a food.
- low energy sugars (monosaccharides and disaccharides) listed in subsection S11–2(3) of schedule 11.

### *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.

There is no technical or physiological reason to consider that sugar from fruit and vegetable products would be processed differently by the body and therefore they should be treated the same. 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. 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.

#### *Dried fruit*

We strongly recommend that a clear and precise definition of dried fruit (whole, cut or chopped) is included in the Food Standards Code. Across the processed fruit sector, there are now a number of products on the market that do not represent traditional dried fruit products. These include 100% fruit straps, fruit bites and baked fruit pieces.

While these products 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 dried fruit should specifically exclude these types of fruit products.

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.'**

VicHealth support that foods containing D-tagatose should not be eligible to carry 'no added sugar' or 'unsweetened' claims. However, this should not be limited to D-tagatose, it should extend to all low energy sugars, and should not be noted as a separate claim condition.

**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.**

VicHealth supports this claim. 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.

**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 (see below)?**

- **Dried fruit, other than whole, cut or chopped dried fruit;**
- **fruit juice (other than concentrated fruit juice), unless the food for sale is canned fruit or frozen fruit;**
- **fruit juice powder;**
- **fruit powder;**
- **fruit pulp;**
- **fruit purée;**
- **concentrated fruit purée.**

VicHealth strongly agrees that foods 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 (as per our response to question 2).

**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.**

VicHealth strongly disagrees with this proposal.

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, may mislead consumers to believe that these products are healthier than they are.

The proposal is 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."

This evidence clearly shows that allowing 'no added sugar' claims on single-ingredient fruit products will increase how healthy consumers perceive these food products to be.

It is also inconsistent with both Australian and New Zealand dietary guidelines which recommend limiting fruit juice consumption. The Australian Dietary Guidelines recommends that fruit juice be consumed occasionally, in small amounts (i.e., 125mL or half a cup), where fresh, frozen or tinned fruit supply is suboptimal. Yet fruit juices are frequently sold in package sizes of 500mL intended for individual consumption in a single occasion.

The New Zealand Dietary Guidelines state that “Sugary drinks include fruit juice, fruit drinks, powdered drinks, cordial, carbonated or fizzy drinks, energy drinks, sports drinks and flavoured waters.” And go on to state that fruit juice a major source of added sugars in New Zealanders’ diets.

Consumers often think of juice as a healthy alternative to sugar-sweetened beverages like soft drinks and energy drinks, despite containing similar sugar levels. 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 FSANZ Consumer Evidence Summary highlighted how influential ‘no added sugar’ claims are in relation to fruit juice specifically, 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.”
- “For fruit juice, ‘no added sugar’ was the most influential factor when compared with other information about juice processing or formulation.”

Allowing ‘no added sugar’ claims will perpetuate consumer misunderstanding about sugars in fruit juice.

**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)**

VicHealth supports the 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.
- (2) the exemption for products that contain less than  $\leq 1.5\%$  sugars.

- (3) that sugars from hydrolysis are treated differently to other 'added sugars' - these sugars should be 'added sugars' as defined.

**1 Processing:** 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 to ensure the 'no added sugar' labelling remains both current and is future proofed.

**2 Exemption:** 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. Definition:** 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)' claim should not contain any 'added sugars'.

**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.**

Agree. all proposed amendments to '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.**

VicHealth agrees with the position that a product containing sweeteners should continue to be unable to carry an ‘unsweetened’ claim.

VicHealth disagrees with the terminology “intense sweeteners” which is not used in the Food Standards Code and does not capture all sweeteners used in the food supply. Instead, the terminology “non-sugar sweetener” should be used as per the World Health Organisation definition of this term.

**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.**

VicHealth strongly supports this proposal. 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 normal cycle of label updates.

**11. Other information relevant to your responses**

VicHealth’s position is consistent with public health groups and definitions are taken from [supporting evidence-informed policy work on added sugar](#).

