



Submission to Food Standards Australia New Zealand on Proposal P1062 Defining added sugars for claims

Cancer Council Australia

6 October 2023



Overview

Cancer Council appreciates the opportunity to participate in the consultation on *Proposal P1062 Defining added sugars for claims* as we aim to ensure a food regulatory system that supports the health of Australians now and into the future.

Cancer Council is Australia's peak non-Government cancer control organisation. As the national body in a federation of eight state and territory member organisations, Cancer Council Australia works to make a lasting impact on cancer outcomes by: shaping and influencing policy and practice across the cancer control continuum; developing and disseminating evidence-based cancer information; convening and collaborating with cross sectorial stakeholders and consumers to set priorities; and speaking as a trusted voice on cancer control in Australia.

Cancer Council Australia acknowledges the traditional custodians of the lands on which we live and work. We pay respect to Aboriginal and Torres Strait Islander elders past, present and emerging and extend that respect to all other Aboriginal and Torres Strait Islander people.

This submission has been prepared by the Cancer Council Nutrition, Alcohol and Physical Activity Committee ([REDACTED]).

This submission was authorised by:

[REDACTED]

[REDACTED]

Summary

Limiting total and added sugars in the diet has been a recommendation from Australian and international health authorities for many years. Central to reducing intake of added sugars is the public's ability to identify the added sugars content of products and use this information to identify healthy options consistent with Australian Dietary Guidelines.

In previous consultation processes, Cancer Council has strongly supported the listing of added sugars in the Nutrition Information Panel (NIP). We maintain that this information is the most important to ensure consumers have objective information on the added sugar content of food products.

Cancer Council wants more Australians to consume diets consistent with Australian Dietary Guidelines to reduce their risk of cancers associated with poor diet and excess bodyweight. A comprehensive added sugar definition and its application in food regulation has the capacity to promote healthier dietary patterns by incentivising food manufacturers to improve the nutritional quality of the food supply and preventing nutrition content claims on unhealthy foods. Conversely, a permissive definition of added sugars could contribute further to poor diet and associated ill health if it paves the way for 'no added sugar' marketing claims on foods that Australians should be consuming less of.

Cancer Council strongly believes that nutrition content claims, including no added sugar claims, are **marketing tools**, and should not be considered as necessary, or even useful, nutrition information for consumers when identifying healthier options. However, to ensure consumers are not potentially misled by added sugar claims on food labels, a clear definition of added sugars, encompassing all current and future sources of sugars is required.

Cancer Council appreciates the opportunity to respond to proposal P1062. Cancer Council has worked in collaboration with public health organisations such as The George Institute, Food For Health Alliance, the Public Health Association of Australia and Consumers NZ to consider our evidence-based recommendations to improve the definition of added sugars. While we are pleased that FSANZ has recognised the influence of claims, we are concerned that having a definition with multiple conditions for various ingredients (such as fruit products) creates confusion and risks inadvertently allowing ingredients contributing added sugars to foods that may be marketed as 'no added sugar', now or in the future.

This submission reiterates the position that we have expressed in previous consultation processes. We **strongly recommend that FSANZ introduces a single, comprehensive and future-proof definition of added sugars**, covering all ingredients that contributes or may contribute in the future to added sugars to the food supply. This includes products such as juices that are a significant source of energy and sugars without also containing other important nutrients such as fibre, and/or are concentrated forms of sugar, such as dried fruits. We recognise that this definition may have wider implications in labelling in the future, including listing added sugars in the NIP. Therefore, it is imperative to ensure that it is as comprehensive as possible.

To protect consumers from being potentially misled by no added sugars claims, and to prevent products sweetened by all forms of sugars from carrying these claims, we strongly recommend the following:

Recommendation 1: FSANZ introduces a single, comprehensive and future-proof definition of added sugars, covering all ingredients that currently contribute added sugars to the food supply and those that may be used by food manufacturers in the future to sweeten products, thus contributing added sugars. Specifically, the added sugar definition should include:

1. All sugars listed in (a)(i) of the Draft Variation to the Australia New Zealand Food Standards Code, plus the following additions:
 - Additional examples of lactose in whey powder, isomaltose, sugar alcohols should be listed in section (c)(iv).

- Additional examples from section (c)(iv) should be explicitly listed, for clarity. This includes cane sugar, beet sugar, white sugar, granulated sugar, fruit sugar and coconut sugar.
- Additional examples from section (c)(vii) should be explicitly listed, for clarity. This includes high fructose corn syrup, tapioca syrup and maple syrup.
- Fruit juice should not be permitted to carry no added sugar claims, particularly if the product contains concentrated fruit juice. This clarification should be removed. Further, this section should be expanded to incorporate concentrated vegetable juices.
- Section (c)(xiii) should also extend to deionised vegetable juices.

We support the exclusions for lemon and lime juices.

2. All sugars listed in (a)(ii)-(ix) of the Draft Variation.
3. The following additional sugars:
 - Concentrated vegetable juice ((c)(xi) above)
 - Deionised vegetable juice ((c)(xii) above)
 - Whole, cut or chopped dried fruit
 - Canned fruit or frozen fruit that contains fruit juice
 - 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
 - hexose monosaccharides and disaccharides formed or residual from processing, including from hydrolysis and fermentation during the production of a food, except if the food for sale is a cereal-based plant milk manufactured using hydrolysis of carbohydrates; and the concentration of hexose monosaccharides and disaccharides in the food is not >1.5%
 - Low-energy sugars (monosaccharides and disaccharides) listed in subsection S11-2(3) of schedule 11.

Recommendation 2:

That foods that are considered added sugars when added to other foods are not be permitted to carry no added sugar claims as a single ingredient food.

Recommendation 3:

That canned and frozen products with added fruit juice are not permitted to carry no added sugar claims.

Recommendation 4:

Dried fruit is included in the definition of added sugars.

Recommendation 5:

As a method of safeguarding against any future application of vegetable-based sweeteners, that vegetable products and derivatives should also be included in the definition of added sugars.

Recommendation 6:

No added sugar claims are prohibited on products, such as fruit juices, that are used as ingredients for the purpose of sweetening and would be considered an added sugar when used as an ingredient in other foods.

Recommendation 7:

Sugars produced as a result of processing techniques that result in the end product being higher in sugars than the component ingredients should be captured in the definition of added sugars.

Recommendation 8:

The World Health Organization's terminology of "non-sugar sweeteners" is adopted in place of "intense sweeteners", to ensure that future new sweeteners are encompassed in the claims condition.

Response to submission questions

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?

Cancer Council does not support the proposed approach.

We appreciate the work FSANZ has conducted to-date on added sugars. While we agree with FSANZ that there is a need to prevent consumer confusion caused by what is considered added sugars for the purpose of labelling, we are concerned that omitting some of the food components mentioned in proposed claim conditions in Schedule 4 (a)(ii)-(ix) will undermine the effectiveness of the definition and permit foods containing added sugars to continue to carry no added sugar claims. Further, this will permit foods that are not consistent with the Australian Dietary Guidelines¹ to carry no added sugar claims. Finally, should added sugars be included in Nutrition Information Panels (NIPs) in the future as suggested by Food Ministers, the omissions from the definition will mean that the values in the NIP will not reflect the true added sugars content of the foods. Further discussion of this issue is presented in Question 2 below.

Additionally, we are concerned that the claim conditions are based on ingredients that are added to foods. Firstly, the draft claim conditions restricts claims on foods that have increased sugar contents as a result of processing. This provision should be retained, however it is inconsistent with conditions stating that added sugars are based on the addition of ingredients to food. Secondly, we believe that claims should not appear on single ingredient foods that, when added to other foods, would be considered an added sugar, such as fruit juice and pastes. More detail is presented in Question 6 below.

The proposed approach does not achieve the primary intent discussed by the Food Ministers in the July meeting to develop a definition of added sugars on food labels, including the NIP,² and is not consistent with the Policy Guideline on Food Labelling to Support Consumers to make Informed Healthy Choices.³ Therefore, we strongly recommend that FSANZ introduces a single, comprehensive and future-proof definition of added sugars, covering all ingredients that contributes or may contribute in the future to added sugars to the food supply. This definition must include all the food components set out in the claim conditions. Further, we recommend that foods that are considered added sugars when added to other foods, such as fruit juice and paste, are not permitted to carry no added sugar claims. This will reduce consumer confusion and reduce the health halo associated with added sugar claims.

Recommendation 1:

FSANZ introduces a single, comprehensive and future-proof definition of added sugars, covering all ingredients that currently contribute added sugars to the food supply and those that may be used by food manufacturers in the future to sweeten products, thus contributing added sugars.

Recommendation 2:

Foods that are considered added sugars when added to other foods should not be permitted to carry no added sugar claims.

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)?

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.

Cancer Council does not support the proposed approach.

The proposed approach would still permit the use of no added sugar claims on products that are ingredients used for the purpose of sweetening (e.g. fruit juice) and would be considered an added sugar when used as an ingredient in other foods. We believe that a food claiming to have no added sugars should not contain any ingredient considered to be an added sugar. Therefore, a single comprehensive definition of added sugar is needed. While we agree that all the abovementioned substances should be included, there is one amendment, and several additions that should be included in this definition.

We strongly recommend that FSANZ introduces a single, comprehensive and future-proof definition of added sugars, covering all ingredients that currently contribute added sugars to the food supply and those that may be used by food manufacturers in the future to sweeten products, thus contributing added sugars. Specifically, we recommend the following provisions are included in the definition of added sugars:

1. All sugars listed in (a)(i) of the Draft Variation to the Australia New Zealand Food Standards Code, plus the following additions:
 - Additional examples of lactose in whey powder, isomaltose, sugar alcohols should be listed in section (c)(iv).
 - Additional examples from section (c)(iv) should be explicitly listed, for clarity. This includes cane sugar, beet sugar, white sugar, granulated sugar, fruit sugar and coconut sugar.
 - Additional examples from section (c)(vii) should be explicitly listed, for clarity. This includes high fructose corn syrup, tapioca syrup and maple syrup, rice and rice malt syrup
 - Fruit juice should not be permitted to carry no added sugar claims, particularly if the product contains concentrated fruit juice. The words 'unless the food for sale is fruit juice' should be removed. Further, this section should be expanded to incorporate concentrated vegetable juices.
 - Section (c)(xiii) should also extend to deionised vegetable juices.

We support the exclusions for lemon and lime juices.

2. All sugars listed in (a)(ii)-(ix) of the Draft Variation.
3. The following additional sugars:

- Concentrated vegetable juice ((c)(xi) above)
 - Deionised vegetable juice ((c)(xii) above)
 - Whole, cut or chopped dried fruit
 - Canned fruit or frozen fruit that contains fruit juice
 - Vegetable juices
 - Vegetable and vegetable juice powder
 - Vegetable pulp
 - Vegetable puree and concentrated vegetable puree
 - A blend or combination of any two or more of the fruit or vegetable ingredients listed above
 - hexose monosaccharides and disaccharides formed or residual from processing, including from hydrolysis and fermentation during the production of a food, except if the food for sale is a cereal-based plant milk manufactured using hydrolysis of carbohydrates; and the concentration of hexose monosaccharides and disaccharides in the food is not >1.5%
 - Low-energy sugars (monosaccharides and disaccharides) listed in subsection S11-2(3) of schedule 11.
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?

Cancer Council does not support the proposed approach.

Foods containing low energy sugars such as monosaccharides and disaccharides listed in subsection S11—2(3) of schedule 11 should not be permitted to display 'no added sugar' or 'unsweetened' claims. This should not be limited to D-tagatose. A specific inclusions of low energy sugars (monosaccharides and disaccharides) listed in subsection S11—2(3) of schedule 11 should be added to the 'added sugar' definition. This will assist in ensuring other new sweeteners are not permitted as no added sugar in the future.

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?

Cancer Council supports this approach.

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.

Cancer Council strongly agrees that food items containing the fruit products listed should not be permitted to carry a no added sugar claim, and we support the exemption for lemon and lime. However, we strongly disagree with the proposed mechanism for this.

As stated in our Recommendation 1, all food ingredients listed in claim conditions (a)(ii)-(ix) must be included in a comprehensive definition of added sugars, rather than separate components only for the purposes of claims. We also recommend that canned or frozen fruit products with added fruit juice should not be permitted to make no added sugar claims. Fruit juice is considered an added sugar for all other products, and therefore fruit products should not be treated any differently.

Recommendation 3:

That canned and frozen products with added fruit juice are not permitted to carry no added sugar claims.

In addition to the abovementioned fruit products, we believe that dried fruit and the following vegetable products and derivatives should also be included in the definition of added sugars:

- Dried vegetables
- Vegetable juices and concentrated vegetable juices, including where the food for sale is canned vegetable or frozen vegetable
- Vegetable and vegetable juice powders
- Vegetable pulps
- Vegetable purées and concentrated vegetable purées

Recommendation 4:

Dried fruit is included in the definition of added sugars.

Recommendation 5:

As a method of safeguarding against any future application of vegetable-based sweeteners, that vegetable products and derivatives should also be included in the definition of added sugars.

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?

Cancer Council does not support the proposed approach.

As demonstrated by FSANZ's Consumer Evidence Summary: 'No Added Sugar' Claims,⁴ no added sugar claims are not well understood by consumers, and may mislead consumers regarding the overall healthiness of foods carrying them. Specifically, research from New Zealand showed that more than one-third of participants perceived products with no added sugar claims to be healthy in an absolute sense.⁵ Further, the study showed that a similar proportion of participants incorrectly believed that products carrying no added sugar claims meant that the product did not contain any sugar, and this proportion was higher in participants from various ethnic backgrounds, such as Māori, Asian and Pacific backgrounds.⁵

The Australian Dietary Guidelines highlight that while most Australians aren't eating the recommended serves of fruit, many are drinking too much juice. While the Australian Dietary Guidelines note that an occasional serve of 125mL of 100% fruit juice can be included as a fruit serve,¹ the 2022 FoodSwitch database by The George Institute shows that the majority (n=247) of the 249 juice products carrying no added sugar claims have serving sizes greater than 125mL.⁶ Fruit juice does not contain the fibre of whole fruits, and contributes to excess energy and sugars in the diet,⁷ as well as an increased risk of dental decay in children.⁸

Given the health halo fruit juice with no added sugar claims enjoy,⁹ as well as the nutritional implications of high consumption, it is important that these products are not marketed in a way that is likely to increase consumption. Further, given that these products are considered added sugars when added to other foods, it is inconsistent to exclude them from the definition of added sugars. Therefore, we recommend that no added sugar claims are prohibited on fruit products which are the food for sale (e.g. fruit juices).

Recommendation 6:

No added sugar claims are prohibited on products, such as fruit juices, that are used as ingredients for the purpose of sweetening and would be considered an added sugar when used as an ingredient in other foods.

Cancer Council agrees that legumes, fungi, herbs, nuts or spices should not be considered fruits for the purposes of the 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?

Cancer Council supports the proposal to permit products containing sugars as a result of hydrolysis to carry no added sugar claims, however we do not support the exclusion of other processing techniques from this definition.

Any food product where the sugar level of the raw ingredients is lower than the sugar content of the end product should not be permitted to carry a no added sugar claim. If processing techniques produce sugars that are not inherent in the raw ingredients, they should be considered added sugars and consumers should not be misled by no added sugar claims on these products. As such, we recommend that the definition of added sugars include any sugars produced by processing techniques that result in the end product being higher in sugars than its component ingredients. This should not be limited to hydrolysis, but expanded to any future processing methods.

Recommendation 7:

Sugars produced as a result of processing techniques that result in the end product being higher in sugars than the component ingredients should be captured in the definition of 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 (see section 5.4 of the Call for submissions document).

Do you have any comments on this approach?

Cancer Council agrees with this approach. However, our previous recommendations for amending the definition of added sugars should also apply to unsweetened claims.

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?

Cancer Council agrees that products containing sweeteners should continue to be prohibited from carrying unsweetened claims.

However, we recommend that the terminology “intense sweeteners” is replaced with the World Health Organization’s terminology of “non-sugar sweeteners”.¹⁰ This is because “intense sweeteners” is not defined in the Australia New Zealand Food Standards Code or the literature, and does not capture all the sweeteners common in the food supply, such as Stevia, aspartame, saccharine and sucralose.

Recommendation 8:

The World Health Organization’s terminology of “non-sugar sweeteners” is adopted in place of “intense sweeteners”, to ensure that future new sweeteners are encompassed in the claims condition.

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?

Cancer Council supports this approach.

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)?

There have been several studies investigating claims on various product categories in Australia. A study of sugar-containing beverages in South Australian supermarkets in 2016 found that 31.7% (n=300) of products carried 'no added sugar' claims. Additionally, 7.9% (n=75) carried 'naturally sweetened/sugar from fruit' claims and 0.3% (n=3) carried 'unsweetened' claims.¹¹

A more recent (2020) study included all products in the dairy yoghurts category in supermarkets in the Illawarra area of NSW.¹² This study found that 7.9% of products (n=125) carried 'no added sugar' claims.¹²

There have also been two studies conducted on different foods marketed at infants and toddlers in 2019. An analysis of ready-to-use infant food pouches available in Sydney retailers (supermarkets, chemists and department stores) found that 59% (n=164) carried 'no added sugar' claims, and the proportion was higher in products aimed at younger ages (e.g. 70% of products aimed at four month old children and 72% of products aimed at 6 month olds).¹³ The other study, investigating infant and toddler foods across a variety of food categories available in South Australian supermarkets (n=282), found that 55% carried a 'no added sugar' claim, and 13% referred to containing 'natural sugar' or sugar from fruit and/or vegetables.¹⁴

Additionally, according to the 2022 The George Institute FoodSwitch database, a total of just over 5% (n=1613) products carried no added sugar claims.⁶

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)?

Cancer Council believes that in addition to investigating the effects of added sugar claims, it is useful to consider the influence of claims more generally. There is a significant amount of research that has been conducted on the effect of nutrition content claims, such as 'no added sugar' claims, in the food and grocery sector. A recent systematic review shows that nutrition content claims were found to influence food purchase intentions, food purchases and consumption.¹⁵ More concerning, the review found the potential for nutrition content claims to lead to overconsumption of foods carrying the claims and subsequently, higher energy intakes.¹⁵

A recent study has shown that exposure to nutrition content claims on food labels reduced consumers' ability to evaluate nutrition content of packaged products, effectively hindering consumer understanding of what is a healthier choice.¹⁶ Further, the presence of nutrition content claims significantly decreases the attention consumers pay to the nutrition information panel.¹⁷ Given that the issue of added sugars is already complex, claims are likely to compound consumer confusion.

Research from New Zealand shows that disadvantaged population groups, such as Māori, Pacific, Asian and lower-income groups are more likely to consider products with nutrition content claims about sugars as healthier based on these claims compared to less disadvantaged groups.⁵ This is particularly concerning if the claims are appearing on products that are unhealthy.⁵

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)?

Cancer Council does not know of any data for this question.

References

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2. Food Regulation Secretariat. Communiqué of outcomes from the Food Ministers' Meeting held on 28 July 2023 Canberra: Food Regulation Secretariat; 2023 [Available from: <https://foodregulation.gov.au/internet/fr/publishing.nsf/Content/forum-communique-2023-july>.
3. Australian Government Department of Health. Policy Guideline on Food Labelling to Support Consumers to Make Informed Healthy Food Choices 2020 [updated 21/08/2020].
4. Food Standards Australia New Zealand. Consumer Evidence Summary: 'No Added Sugar' Claims. Canberra; 2023.
5. Gorton D, Mhurchu CN, Bramley D, Dixon R. Interpretation of two nutrition content claims: a New Zealand survey. Aust N Z J Public Health. 2010;34(1):57-62.
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16. Prates SMS, Reis IA, Rojas CFU, Spinillo CG, Anastácio LR. Influence of nutrition claims on different models of front-of-package nutritional labeling in supposedly healthy foods: Impact on the understanding of nutritional information, healthfulness perception, and purchase intention of Brazilian consumers. *Front Nutr*. 2022;9:921065.
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Submitted to P1062 - Defining added sugars for claims
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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.:

Cancer Council Australia

What is your position title?

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

Chair, Cancer Council Nutrition, Alcohol and Physical Activity Committee

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?:

Cancer Council does not support the proposed approach.

We appreciate the work FSANZ has conducted to-date on added sugars. While we agree with FSANZ that there is a need to prevent consumer confusion caused by what is considered added sugars for the purpose of labelling, we are concerned that omitting some of the food components mentioned in proposed claim conditions in Schedule 4 (a)(ii)-(ix) will undermine the effectiveness of the definition and permit foods containing added sugars to continue to carry no added sugar claims. Further, this will permit foods that are not consistent with the Australian Dietary Guidelines (1) to carry no added sugar claims. Finally, should added sugars be included in Nutrition Information Panels (NIPs) in the future as suggested by Food Ministers, the omissions from the definition will mean that the values in the NIP will not reflect the true added sugars content of the foods. Further discussion of this issue is presented in Question 2 below.

Additionally, we are concerned that the claim conditions are based on ingredients that are added to foods. Firstly, the draft claim conditions restricts claims on foods that have increased sugar contents as a result of processing. This provision should be retained, however it is inconsistent with conditions stating that added sugars are based on the addition of ingredients to food. Secondly, we believe that claims should not appear on single ingredient foods that, when added to other foods, would be considered an added sugar, such as fruit juice and pastes. More detail is presented in Question 6 below. The proposed approach does not achieve the primary intent discussed by the Food Ministers in the July meeting to develop a definition of added sugars on food labels, including the NIP,(2) and is not consistent with the Policy Guideline on Food Labelling to Support Consumers to make Informed Healthy Choices.(3) Therefore, we strongly recommend that FSANZ introduces a single, comprehensive and future-proof definition of added sugars, covering all ingredients that contributes or may contribute in the future to added sugars to the food supply. This definition must include all the food components set out in the claim conditions. Further, we recommend that foods that are considered added sugars when added to other foods, such as fruit juice and paste, are not permitted to carry no added sugar claims. This will reduce consumer confusion and reduce the health halo associated with added sugar claims.

Recommendation 1:

FSANZ introduces a single, comprehensive and future-proof definition of added sugars, covering all ingredients that currently contribute added sugars to the food supply and those that may be used by food manufacturers in the future to sweeten products, thus contributing added sugars.

Recommendation 2:

Foods that are considered added sugars when added to other foods should not be permitted to carry no added sugar claims.

1. National Health and Medical Research Council, Department of Health. Australian Dietary Guidelines. Canberra; 2013.
2. Food Regulation Secretariat. Communiqué of outcomes from the Food Ministers' Meeting held on 28 July 2023 Canberra: Food Regulation Secretariat; 2023 [Available from: <https://foodregulation.gov.au/internet/fr/publishing.nsf/Content/forum-communique-2023-july>].
3. Australian Government Department of Health. Policy Guideline on Food Labelling to Support Consumers to Make Informed Healthy Food Choices 2020 [updated 21/08/2020].

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)?:

Cancer Council does not support the proposed approach.

The proposed approach would still permit the use of no added sugar claims on products that are ingredients used for the purpose of sweetening (e.g. fruit juice) and would be considered an added sugar when used as an ingredient in other foods. We believe that a food claiming to have no added sugars should not contain any ingredient considered to be an added sugar. Therefore, a single comprehensive definition of added sugar is needed. While we agree that all the abovementioned substances should be included, there is one amendment, and several additions that should be included in this definition.

We strongly recommend that FSANZ introduces a single, comprehensive and future-proof definition of added sugars, covering all ingredients that currently contribute added sugars to the food supply and those that may be used by food manufacturers in the future to sweeten products, thus contributing added sugars. Specifically, we recommend the following provisions are included in the definition of added sugars:

1. All sugars listed in (a)(i) of the Draft Variation to the Australia New Zealand Food Standards Code, plus the following additions:
 - Additional examples of lactose in whey powder, isomaltose, sugar alcohols should be listed in section (c)(iv).
 - Additional examples from section (c)(iv) should be explicitly listed, for clarity. This includes cane sugar, beet sugar, white sugar, granulated sugar, fruit sugar and coconut sugar.
 - Additional examples from section (c)(vii) should be explicitly listed, for clarity. This includes high fructose corn syrup, tapioca syrup and maple syrup, rice and rice malt syrup
 - Fruit juice should not be permitted to carry no added sugar claims, particularly if the product contains concentrated fruit juice. The words 'unless the food for sale is fruit juice' should be removed. Further, this section should be expanded to incorporate concentrated vegetable juices.
 - Section (c)(xiii) should also extend to deionised vegetable juices.

We support the exclusions for lemon and lime juices.

2. All sugars listed in (a)(ii)-(ix) of the Draft Variation.

3. The following additional sugars:

- Concentrated vegetable juice ((c)(xi) above)
- Deionised vegetable juice ((c)(xii) above)
- Whole, cut or chopped dried fruit
- Canned fruit or frozen fruit that contains fruit juice
- Vegetable juices
- Vegetable and vegetable juice powder
- Vegetable pulp
- Vegetable puree and concentrated vegetable puree
- A blend or combination of any two or more of the fruit or vegetable ingredients listed above
- hexose monosaccharides and disaccharides formed or residual from processing, including from hydrolysis and fermentation during the production of a food, except if the food for sale is a cereal-based plant milk manufactured using hydrolysis of carbohydrates; and the concentration of hexose monosaccharides and disaccharides in the food is not >1.5%
- Low-energy sugars (monosaccharides and disaccharides) listed in subsection S11-2(3) of schedule 11.

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?:

Cancer Council does not support the proposed approach.

Foods containing low energy sugars such as monosaccharides and disaccharides listed in subsection S11—2(3) of schedule 11 should not be permitted to display 'no added sugar' or 'unsweetened' claims. This should not be limited to D-tagatose. A specific inclusions of low energy sugars (monosaccharides and disaccharides) listed in subsection S11—2(3) of schedule 11 should be added to the 'added sugar' definition. This will assist in ensuring other new sweeteners are not permitted as no added sugar in the future.

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?:

Cancer Council supports this approach.

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?:

Cancer Council strongly agrees that food items containing the fruit products listed should not be permitted to carry a no added sugar claim, and we support the exemption for lemon and lime. However, we strongly disagree with the proposed mechanism for this.

As stated in our Recommendation 1, all food ingredients listed in claim conditions (a)(ii)-(ix) must be included in a comprehensive definition of added sugars, rather than separate components only for the purposes of claims. We also recommend that canned or frozen fruit products with added fruit juice should not be permitted to make no added sugar claims. Fruit juice is considered an added sugar for all other products, and therefore fruit products should not be treated any differently.

Recommendation 3:

That canned and frozen products with added fruit juice are not permitted to carry no added sugar claims.

In addition to the abovementioned fruit products, we believe that dried fruit and the following vegetable products and derivatives should also be included in the definition of added sugars:

- Dried vegetables
- Vegetable juices and concentrated vegetable juices, including where the food for sale is canned vegetable or frozen vegetable
- Vegetable and vegetable juice powders
- Vegetable pulps
- Vegetable purées and concentrated vegetable purées

Recommendation 4:

Dried fruit is included in the definition of added sugars.

Recommendation 5:

As a method of safeguarding against any future application of vegetable-based sweeteners, that vegetable products and derivatives should also be included in the definition of added sugars.

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?:

Cancer Council does not support the proposed approach.

As demonstrated by FSANZ's Consumer Evidence Summary: 'No Added Sugar' Claims,⁽⁴⁾ no added sugar claims are not well understood by consumers, and may mislead consumers regarding the overall healthiness of foods carrying them. Specifically, research from New Zealand showed that more than one-third of participants perceived products with no added sugar claims to be healthy in an absolute sense.⁽⁵⁾ Further, the study showed that a similar proportion of participants incorrectly believed that products carrying no added sugar claims meant that the product did not contain any sugar, and this proportion was higher in participants from various ethnic backgrounds, such as Māori, Asian and Pacific backgrounds.⁽⁵⁾

The Australian Dietary Guidelines highlight that while most Australians aren't eating the recommended serves of fruit, many are drinking too much juice. While the Australian Dietary Guidelines note that an occasional serve of 125mL of 100% fruit juice can be included as a fruit serve,⁽¹⁾ the 2022 FoodSwitch database by The George Institute shows that the majority (n=247) of the 249 juice products carrying no added sugar claims have serving sizes greater than 125mL.⁽⁶⁾ Fruit juice does not contain the fibre of whole fruits, and contributes to excess energy and sugars in the diet,⁽⁷⁾ as well as an increased risk of dental decay in children.⁽⁸⁾

Given the health halo fruit juice with no added sugar claims enjoy,⁽⁹⁾ as well as the nutritional implications of high consumption, it is important that these products are not marketed in a way that is likely to increase consumption. Further, given that these products are considered added sugars when added to other foods, it is inconsistent to exclude them from the definition of added sugars. Therefore, we recommend that no added sugar claims are prohibited on fruit products which are the food for sale (e.g. fruit juices).

Recommendation 6:

No added sugar claims are prohibited on products, such as fruit juices, that are used as ingredients for the purpose of sweetening and would be considered an added sugar when used as an ingredient in other foods.

Cancer Council agrees that legumes, fungi, herbs, nuts or spices should not be considered fruits for the purposes of the claim conditions.

4. Food Standards Australia New Zealand. Consumer Evidence Summary: 'No Added Sugar' Claims. Canberra; 2023.

5. Gorton D, Mhurchu CN, Bramley D, Dixon R. Interpretation of two nutrition content claims: a New Zealand survey. Aust N Z J Public Health. 2010;34(1):57-62.

6. The George Institute for Global Health. FoodSwitch Database. Sydney 2022.

7. World Health Organization. Guideline: Sugars Intake for Adults and Children. Geneva; 2015.

8. Auerbach BJ, Dibey S, Vallila-Buchman P, Kratz M, Krieger J. Review of 100% Fruit Juice and Chronic Health Conditions: Implications for Sugar-Sweetened Beverage Policy. Advances in nutrition (Bethesda, Md). 2018;9(2):78-85.

9. Brownbill AL, Braunack-Mayer AJ, Miller CL. What makes a beverage healthy? A qualitative study of young adults' conceptualisation of sugar-containing beverage healthfulness. Appetite. 2020;150:104675-.

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?:

Cancer Council supports the proposal to permit products containing sugars as a result of hydrolysis to carry no added sugar claims, however we do not support the exclusion of other processing techniques from this definition.

Any food product where the sugar level of the raw ingredients is lower than the sugar content of the end product should not be permitted to carry a no added sugar claim. If processing techniques produce sugars that are not inherent in the raw ingredients, they should be considered added sugars and consumers should not be misled by no added sugar claims on these products. As such, we recommend that the definition of added sugars include any sugars produced by processing techniques that result in the end product being higher in sugars than its component ingredients. This should not be limited to hydrolysis, but expanded to any future processing methods.

Recommendation 7:

Sugars produced as a result of processing techniques that result in the end product being higher in sugars than the component ingredients should be captured in the definition of 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 (see section 5.4 of the Call for submissions document).

Do you have any comments on this approach?:

Cancer Council agrees with this approach. However, our previous recommendations for amending the definition of added sugars should also apply to unsweetened claims.

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?:

Cancer Council agrees that products containing sweeteners should continue to be prohibited from carrying unsweetened claims.

However, we recommend that the terminology "intense sweeteners" is replaced with the World Health Organization's terminology of "non-sugar sweeteners".(10) This is because "intense sweeteners" is not defined in the Australia New Zealand Food Standards Code or the literature, and does not capture all the sweeteners common in the food supply, such as Stevia, aspartame, saccharine and sucralose.

Recommendation 8:

The World Health Organization's terminology of "non-sugar sweeteners" is adopted in place of "intense sweeteners", to ensure that future new sweeteners are encompassed in the claims condition.

10. World Health Organization. Use of non-sugar sweeteners: WHO guideline. Geneva; 2023.

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?:

Cancer Council supports this approach.

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.:

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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.:

061023 P1062 Added Sugars Definition CCA Submission.docx 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:

see full submission attached

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