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Tēnā koe,

## P1063 Code Revision (2024) – Added Sugar(s) Claims

Thank you for the opportunity to comment on this proposal. New Zealand Food Safety (NZFS) has the following comments to make.

### *Removal of the term ‘sugars\*’ from the Code*

NZFS supports the changes proposed in the draft variation clauses [1] – [5], namely the removal of the words ‘(except where it appears with an asterisk as ‘sugars\*)’:

- [1] Subsection 1.1.2—2(3) (paragraph (a) of the definition of sugars)
- [2] Section 1.2.7—2 (Note 1, the definition of sugars)
- [3] Section 1.2.8—4 (Note 1, the definition of sugars)
- [4] Section 2.6.2—2 (Note 1, paragraph (a) of the definition of sugars)
- [5] Section S4—2 (Note, the definition of sugars)

We agree this wording is no longer needed as the term ‘sugars\*’ is no longer used in Schedule 4 or anywhere else in the Australia New Zealand Food Standards Code (the Code).

### *Amendment to section S4—3*

NZFS does not support the change proposed in the draft variation clause [6], namely changing the ‘and’ to ‘or’ in the claim conditions for a ‘no added sugar’ claim:

- [6] Section S4—3 (table entry dealing with “Sugar or sugars”, descriptor of ‘No added’ in column 3, subparagraph (b)(i) in column 4)

NZFS does not consider this is a typographical error. We consider the use of ‘and’ was entirely intentional and is described as such in the Approval Report for P1062 (Defining added sugars for claims). We note from the P1062 Approval report that:

***FSANZ has approved an amended draft variation **to not permit ‘no added sugar(s)’ claims when a food:*****

- *contains, or is, an ‘added sugar’ as defined - the definition as originally proposed in the CFS was amended to include concentrated and deionised vegetable juice and now also applies to foods that are themselves ‘added sugar’ e.g. jar of honey*

• *does not contain 'added sugar' but contains more sugars (i.e. monosaccharides and disaccharides) than:* • 10.0 g /100 g for solid food • 7.5 g /100 mL for liquid food.

This second bullet clearly articulates that no added sugar claims are not intended to be permitted on products even when they contain no added sugar (i.e., meet condition (b)(i)) if they contain over the stated limits of sugars (condition (b)(ii)). Therefore, both condition (b)(i) and condition (b)(ii) are intended to be met for a 'no added sugar' claim to be permitted.

The heading of column 4 of the table to S4—3 of the Code is “*Conditions that must be met if using specific descriptor in Column 3.*” This means the conditions in column 4 relate to **allowing** a claim from column 3 to be made rather than **prohibiting** such a claim. The use of 'and' between conditions (b)(i) and (b)(ii) ensures both conditions apply before the “no added sugars” claim **can** be made.

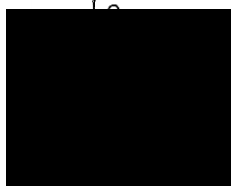
P1063 states that: *The provision should provide that **a claim may be made** if the food complies with either condition (i) or condition (ii), not both.* NZFS considers this contradicts the P1062 Approval Report and changes the intent from that was agreed and adopted under P1062. As such, this is not a minor technical amendment and is not appropriate to be amended via a Code maintenance proposal.

NZFS considers that listing conditions (b)(i) and (b)(ii) simply as conditions (b) and (c) (and adjusting the lettering for remaining conditions accordingly) would clarify the intent and remove any ambiguity. This has the effect that all conditions listed in column 4 of S4—3 must be met for use of the descriptor 'no added' for sugar or sugars, eliminating the need for an 'and' or 'or'.

Please feel free to contact me if you would like to discuss this response.

Nāku noa, nā

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