

4 September 2020



Dr. Sandra Cuthbert  
General Manager – Food Safety and Corporate  
Food Standards Australia New Zealand  
Level 4, 15 Lancaster Place  
Majura Park ACT 2609  
PO Box 5423

By email: [submissions@foodstandards.gov.au](mailto:submissions@foodstandards.gov.au)

Dear Dr. Cuthbert,

**RE: Urgent Proposal P1054 Pure and highly concentrated caffeine products – Assessment of the Approved Variation**

On behalf of the Australian Beverages Council Limited [ABCL], representing over 90 per cent of the non-alcoholic beverage industry's production volume in Australia, which supports employment for more than 46,000 Australians and contributes more than \$7 billion per annum to the national economy, we welcome the opportunity to comment on the *Call for submissions – Urgent Proposal P1054 Pure and highly concentrated caffeine products - Assessment of the Approved Variation*.

In consultation with its Members, the ABCL has previously commented on the Food Standards Australia New Zealand [FSANZ] assessment of the approved variation to the Food Standards Code [the Code] to prohibit the retail sale of pure and highly concentrated caffeine products.

**Context on Urgent Proposal P1054 Pure and highly concentrated caffeine products**

The ABCL acknowledges that in conducting this assessment, FSANZ has confirmed its initial risk assessment of Urgent Proposal P1054, which identified an immediate and acute risk to consumers due to the sale of pure or highly concentrated forms of caffeine.

[FSANZ's review report](#) to Ministers addressed the lack of clarity in the Code for permissions to use pure or highly concentrated forms of caffeine in foods, suggesting that a ban on the retail sale of pure caffeine products and a maximum level of caffeine should be considered for inclusion in the Code. These recommendations were accompanied with the proposal of a coordinated inter-agency consumer information campaign on safe caffeine consumption; the development of guidance on the regulation of products containing pure or high concentrations of caffeine; and targeted research on caffeine consumption across Australia and New Zealand, including specific vulnerable population groups.

The approval of the variation to the Code to prohibit the retail sale of pure and highly caffeinated food products i.e. a caffeine limit of 5% (5g/100g) in foods (solids and semi-solids) and 1% (1g/100mL) in liquids, was declared urgent to protect public health and safety. It is understood that FSANZ has not identified other types of caffeinated products that pose the same risk to consumers and the intent of this variation was not to change existing permissions in the Code that regulate caffeine in long standardised foods, such as formulated caffeinated beverages and cola type drinks. It is also understood that FSANZ's review was not related to the use or presence of caffeine in food more generally.



## Response to Assessment of the Approved Variation

**The ABCL supports** the inclusion of the variation to the Code to limit caffeine in foods (solid and semi-solids) to 5% (5g/100g) and in liquids to 1% (1g/100mL), as detailed in its submission to the initial report of Urgent Proposal P1054 in November 2019.

**The ABCL supports** the existing permissions in the Code relating to the use of caffeine as an ingredient in formulated caffeinated beverages (**Standard 2.6.4**) and as a food additive in cola type drinks (**Schedule 15**). The ABCL notes that the Code restricts the maximum amount of caffeine allowed in these products (32mg/100mL for formulated caffeinated beverages and 14.5mg/100mL for cola type drinks). These caffeine thresholds were established after a comprehensive scientific review<sup>1</sup>, which was recently endorsed.<sup>2</sup> Furthermore, for formulated caffeinated beverages the Code requires mandatory labelling advisory statements that state the product contains caffeine and is not recommended for certain caffeine sensitive subpopulations, as well as requiring the labels of formulated caffeinated beverages to declare the amount of caffeine (in mg) per serving and per 100mL.

**The ABCL reiterates the industry's support** for recommendations three (3) and five (5) of FSANZ's review to Ministers; an inter-agency consumer information campaign on safe caffeine consumption and the continued monitoring of caffeine consumption across Australia and New Zealand to better inform public health assessments on caffeine.

In particular, the ABCL wishes to offer its support for a consumer information campaign on safe caffeine consumption. In this regard, the ABCL refers FSANZ to the ABCL's existing consumer [information campaign](#)<sup>3</sup> and industry [commitments](#)<sup>4</sup> regarding formulated caffeinated beverages and caffeinated beverages more generally. The ABCL would be pleased to further endorse and/or adapt these resources in partnership with FSANZ.

The ABCL thanks FSANZ for the opportunity to further provide comments in relation to the Urgent Proposal P1054 and the approved variation to the Code and look forward to further engagement in future consultations.

If you wish to discuss any aspects of this letter, please contact [REDACTED], Technical, Scientific and Regulatory Affairs Manager, who will assist in providing any other assistance on behalf of the ABCL. [REDACTED]

Yours sincerely,

[REDACTED]

[REDACTED]  
Chief Executive Officer

---

<sup>1</sup> FSANZ (Formerly ANZFA) *Statement of Reasons for Recommending Adoption of Draft Standard 2.6.4*, 8 August 2001.

<sup>2</sup> FSANZ, *Regulatory Management of Caffeine in the Food Supply*, Endorsed by the Ministerial Forum on 27 June 2014.

<sup>3</sup> <https://www.australianbeverages.org/energy-drinks-microsite/>

<sup>4</sup> [https://www.australianbeverages.org/wp-content/uploads/2019/02/Energy-Drinks\\_AnIndustryCommitment-1.pdf](https://www.australianbeverages.org/wp-content/uploads/2019/02/Energy-Drinks_AnIndustryCommitment-1.pdf)

