

## Response ID ANON-JN9Z-F8FC-J

Submitted to P1062 - Defining added sugars for claims  
Submitted on 2023-10-06 12:38:45

### Complete your submission

#### Your details

What is your name?

Contact person:

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What is your telephone number?

Telephone:

Which one of the following groups do you most affiliate with?

[REDACTED]

If other, please specify:

What is the name of your organisation?

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

Healthy Food Systems Australia

What is your position title?

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

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?:

Disagree.

Whilst there is much that can be supported as part of the Proposal 1062, the lack of a comprehensive definition of added sugars is particularly concerning. The no added sugars definition is almost completely the same as the current definition and the only thing that has changed are the conditions for making a claim. The inclusion of the sugar containing ingredients conditions can be seen as a de facto definition but does not provide the comprehensive definition the Ministers had seen was a matter of priority, nor address the way added sugars will appear on the NIP. In its current form, P1062 is likely to continue the use of a restricted definition for the purposes of providing information to consumers so that they can limit added sugars.

We understand that P1062 was developed upon the Ministers request for a staged approach to P1058, but surely a major starting point for that approach is the comprehensive definition.

The proposal that the 'no added sugars' claim conditions be based only on the addition of ingredients into foods, whilst perhaps aligning with the word "added", is problematic as it does not include foods that are sources of intrinsic sugars e.g. fruit juice or are single ingredient items e.g. table sugar, which should be either restricted or not seen as a healthy food (depending on the Dietary Guidelines from each country).

We recommended that FSANZ consider adopting an approach for defining 'added sugars' as those that are produced by processing methods where the food matrix is altered. This should specifically include sugars from hydrolysis, fermentation, and the processing of fruit and vegetables or dried fruit and vegetables.

'No added sugar' claim conditions should simply ensure that the claim cannot be made on foods which:

- 1) contain 'added sugars' as defined; OR
- 2) is an 'added sugar' as defined and is sold as a single ingredient food.

We also believe that other sugar related claims which suggest 'no added sugar' such as 'no or no added cane sugar' or 'no or no added refined sugar' should similarly be regulated as per 'no added sugar' claims since, they too, provide a health halo to foods.

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)?:

Do not support

As per response to Question 1, the separate defining of 'added sugars' and claim conditions based on stated foods within the standard is not supported. A food displaying a 'no added sugar(s)' claim should simply not contain, or be the source of, 'added sugars' as that term is defined in the proposed regulation. A comprehensive definition of 'added sugar' is required for this purpose.

The definition of 'added sugar', should include:

- ☐ all sugars listed in (a)(i-ix) of the draft variation to the Food Standards Code in CFS Attachment A
- ☐ Conditions B and C with the following additions for conditions C:
  - (c)(i) lactose in whey powder, isomaltose, sugar alcohols should also be added
  - (c)(iv) additional examples as follows: cane sugar, beet sugar, white sugar, granulated sugar, fruit sugar,
  - (c)(vii) additional examples as follows: high fructose corn syrup, tapioca syrup, maple syrup, rice and rice malt syrup
  - (c)(xi)
- ☐ We do not support fruit juice being able to carry a 'no added sugar' claim and the words 'unless the food for sale is fruit juice' should be removed
- ☐ We strongly recommend that the words 'and concentrated vegetable juices' are added to condition (c)(xi).
  - (c)(xii) 'or vegetable juice' are added 'deionised fruit juice'
- ☐ the following additional sugars:
  - ☐ concentrated vegetable juice (where it is a source of sugars)
  - ☐ deionised vegetable juice (where it is a source of sugars)
  - ☐ whole, cut or chopped dried fruit
  - ☐ canned fruit or frozen fruit that contains fruit juice - 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, where the vegetable product is a source of sugars
  - ☐ 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. This is an over reliance on the specific words in the Dietary Guidelines – which, in Australia were last updated in 2013. The food market was quite different during the time these 2013 Guidelines were developed and it is possible that few vegetable juices, pulps or purees were used in processed foods. The situation is different now and so vegetable sources of sugar should be treated similarly to fruit sources of sugar. Indeed, in the background paper to P1058, FSANZ consistently recognised that fruits and vegetables should be treated in the same manner. This is consistent with our recommendation to include foods for which the original food matrix is altered and that are sources of sugars.

The manufacture and retailing of high sugar vegetable products such as beet juice concentrate which is already in the food supply for the purposes of

sweetening, would likely increase if vegetable sources of sugars are not included in the definition.

#### Dried fruit

As pointed out in the CFS, FSANZ agrees that there is mixed evidence on the health impacts and benefits of dried fruit. Given the dietary guideline recommendations in Australia and New Zealand recommend these are limited in the diet, due to their very high sugar content and the ease with which they can be overconsumed, we suggest a precautionary approach to include dried fruit in a comprehensive 'added sugars' definition. This is consistent with our recommendation to include foods for which the original food matrix is altered.

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 the inclusion of D-tagatose in the definition of added sugars and hence foods containing this product would be ineligible to carry 'no added sugar' or 'unsweetened' claims. However, the inclusion should not be limited to D-tagatose, and should be extended to all low energy sugars, listed in subsection S11—2(3) of schedule 11.

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?:

As above (Q3), we support this inclusion, however we believe that all of these sugars be included in the comprehensive definition of added sugars.

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 response to question 2. However, as stated above we disagree with the separating out of different types of added sugars as claim conditions, rather than all be contained within a comprehensive definition of 'added sugars'.

As FSANZ has noted:

"'No added sugar(s)'/unsweetened' claims were most commonly found on fruit juices, fruit and vegetable juice blends, dried fruit, frozen fruit, fruit and nut balls, almond and oat milks, infant/toddler purées/foods and yoghurts, and represented a high proportion of the overall range of products available in these categories. Claims were also found on a range of other foods and beverages such as some breakfast cereals, canned fruits, fruit purées, snack bars/fruit wraps, fruit drinks and mineral waters. The sources of sugars or sweetness for these products varied and included naturally-occurring sugars found in fruit, dairy, grains and honey, sugars formed through hydrolysis of carbohydrates during food manufacture, and sweeteners." CFS p. 12

It is therefore important that the sources of sugars be included in a comprehensive definition of added sugars.

In relation to fruit juice specifically:

- ☐ we strongly recommend that any reference to fruit juice should clearly state that 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. Where fruit juice is added there should be no claim permissible.

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 is not consistent with dietary guideline advice about limiting fruit juice or fruit juice being inappropriate for children and continues the consumer impression that these juices are a healthy choice (health halo). It is quite confusing and contradictory for consumer to have claims about fruit juice having a 'no added sugar' claim, but as soon as that same juice is added to a food it can no longer claim to be 'no added sugar'.

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."

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. This misinformation is in direct conflict with dietary guideline recommendations that people only consume fruit juice occasionally and in small amounts.

Prohibiting juices 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.

FSANZ Consumer Evidence Summary highlights 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." (FSANZ Consumer Evidence Summary, p21)
- "For fruit juice, 'no added sugar' was the most influential factor when compared with other information about juice processing or formulation." (FSANZ Consumer Evidence Summary, p22).

Allowing 'no added sugar' claims will also perpetuate consumer misunderstanding about sugars in fruit juice. As highlighted in FSANZ Literature review on consumer knowledge, attitudes and behaviours relating to sugars and food labelling (completed as part of the work on P1058) 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."

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 FSANZs 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 included within the comprehensive definition of 'added sugars'.

Once again, this is consistent with our recommendation to include foods for which the original food matrix is altered as the basis for 'added sugar' deliberations.

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.

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 (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.

However, the term 'intense sweeteners' is not defined in the Foods Standards Code nor consistently in literature and does capture all sweeteners used in the food supply.

To avoid confusion and to allay any misclassification, the term 'non-sugar sweetener' should be used instead and a definition added to the Food Standards Code as per the World Health Organisation definition of this term. This would ensure all low and non-calorie sweeteners are captured within the definition including acesulfame K, aspartame, advantame, cyclamates, neotame, saccharin, sucralose, stevia and stevia derivatives.

See: 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 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.:

Q11.docx 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.:

Q12.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:

Please upload additional files here.:

No file uploaded

## Feedback

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

Very satisfied

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

No

If yes, please provide details.:

**Q11: Data on number of products with “no added sugar” claims**

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)

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.

According to the George Institute FoodSwitch dataset, a total of 5.4% of all foods in the food supply carried a ‘no added sugar’ claim in 2022 (1613 products out of a total of 29,694).

**Q12: Evidence on understanding of “no added sugar claims”**

Our research into nutrition claims and perceived healthiness showed that participants were nearly 14 times more likely to perceive a product with the nutrition-content claim "no added sugar, no added salt" as most healthy (OR 13.71,  $p < 0.001$ ), compared to when no nutrition-content claim was present.

McCann J, Woods J, Mohebbi M, Russell CG. Regulated nutrition claims increase perceived healthiness of an ultra-processed, discretionary toddler snack food and ultra-processed toddler milks: A discrete choice experiment. *Appetite*. 2022 Jul 1;174:106044. doi: 10.1016/j.appet.2022.106044. Epub 2022 Apr 14. PMID: 35430297.