

# SUBMISSION

Friday, 6 October 2023

## AMA submission – P1062 FSANZ Defining Added Sugars for Claims

Submitted via survey: <https://consultations.foodstandards.gov.au/fsanz/p1062-defining-added-sugars-for-claims/>

### Introduction

The AMA welcomes this opportunity to submit to Food Standards Australian and New Zealand (FSANZ) P1062 *consultation Defining Added Sugars for Claims*. This consultation is being undertaken by FSANZ at the request of Australian and New Zealand food ministers, to have 'added sugar' better clarified and defined in the food standard Code, to align with dietary guidelines. P1062 complements the other work being undertaken by FSANZ to include added sugar information to Nutrition Information Panels (NIP), with the goal to better inform consumers on their sugar intake.

### **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).**

The AMA notes the Communique from the Food Ministers Meeting on 28th July 2023 stated 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 NIP and on front of package labelling, through appropriate consumer testing.

The AMA strongly disagrees with this proposal, as P1062 does not adequately satisfy the above points identified by the Food Ministers. It 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 Nutrition Information Panels (NIP) and for front of package labelling. This is because 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.

The AMA acknowledges and supports FSANZ in recognising the need to ensure consumers are not misled about the food components set out in the proposed claim conditions (a)(ii)-(ix). However, by not including them in the added sugar definition itself, the utility of the definition is severely restricted, and the outcome undermines the intention of the Food Ministers, which was that the definition of added sugars should be the basis for including added sugar information in the nutrition information panel and in front of pack food labels.

The AMA has two overarching concerns with P1062:

1. The definition of added sugar is not comprehensive and not fit for purpose:
  - FSANZ acknowledges there are certain food components that consumers should not be misled about and therefore should not be eligible to carry a 'no added sugar' claim. We support this premise, however, failing to include the 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.
  - Regarding the proposed conditions for 'no added sugar' claims, a number of food components are missing from claim conditions (a)(i)-(ix). More detail on this is discussed in question 2 below.

- P1062 was initiated in response to Food Ministers asking for work on P1058 to be staged. A definition must be fit for that purpose also.

2. That claim conditions are based on the addition of ingredients to foods – the AMA does not agree with this basis:

- 'No added sugar' claims should not be permitted on single ingredient foods that, when added to other foods, would make that food ineligible to display a 'no added sugar' claim (i.e. on fruit juice). More detail on this is discussed in question 6 below.
- 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.

The AMA strongly supports the view that 'No added sugar' claim conditions should simply ensure that no food that:

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

**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).**

The AMA is not supportive of this approach and believes a comprehensive definition of 'added sugar' is required, to ensure that a food displaying a 'no added sugar(s)' simply does not contain any 'added sugars'. Currently there are too many loopholes for the addition of certain sugars within the proposed definition, which should be more comprehensively defined in the regulation. We do not support that these sugars need to be physically added as an ingredient for claim conditions to apply. For example, sugars that are created through processing are not physically added.

In addition, the AMA strongly disagrees with the proposed claim condition (c) - foods for sale that are products listed on proposed claim condition (c)(i)(A)-(H) should not be permitted to carry 'no added sugar' claims. See the AMA's response to question 6 for more details.

*To be fit for purpose and meet the Food Ministers intent, claim condition (c), the definition of 'added sugar', must include:*

- **all sugars listed in (a)(i) of the draft variation to the Food Standards Code in CFS Attachment A**

Comments on food components listed in condition (c) of the draft variation to the Food Standards Code in CFS Attachment A:

- **(c)(i)** For completeness we recommend that additional examples are added to the list of examples for condition (c)(i) in section 8 of the Draft Explanatory Statement as follows: lactose in whey powder, isomaltose, sugar alcohols
- **(c)(iv)** For completeness we recommend that additional examples are added to the 'including' list for condition (c)(iv) as follows: cane sugar, beet sugar, white sugar, granulated sugar, fruit sugar,
- **(c)(vii)** For completeness we recommend that additional examples are added to list of examples for condition (c)(vii) as follows: high fructose corn syrup, tapioca syrup, maple syrup, rice and rice malt syrup
- **(c)(xi)**
  - The AMA does not agree that fruit juice should be able to carry a 'no added sugar' claim and the words 'unless the food for sale is fruit juice' should be removed from condition (c)(xi). See our response to question 6 for more details.
  - We strongly recommend that the words 'and concentrated vegetable juices' are added to condition (c)(xi).
- **(c)(xii)** We strongly recommend that the words 'or vegetable juice' are added to condition (c)(xii) after the words 'deionised fruit juice'

- Whilst deionised vegetable juice is not currently used in the food supply, excluding it from the definition will result in an opportunity for this exclusion to be exploited in future.
- **all sugars listed in (a)(ii)-(ix) of the draft variation to the Food Standards Code in CFS Attachment A**
- **the following additional sugars:**
  - concentrated vegetable juice (as noted in relation to (c)(xi) above). See the AMA's additional comments below under 'Vegetable products'.
  - deionised vegetable juice (as noted in relation to (c)(xii) above). See our additional comments below under 'Vegetable products'.
  - whole, cut or chopped dried fruit. See our additional comments below under '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. See our additional comments below under 'Vegetable products'.
  - monosaccharides and disaccharides formed or residual from processing, including from hydrolysis and fermentation during the production of a food. See our response to question 7 for more detail.
  - low energy sugars (monosaccharides and disaccharides) listed in subsection S11—2(3) of schedule 11. See our response to question 4 for more details.

#### *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. The AMA strongly disagrees with FSANZ's position on vegetable products in the context of added sugars. Beetroot is a great example of a vegetable with a high sugar content, that is often juiced and used in bottled beverages and baby food, with an average of 7 grams of sugar, similar to that of blueberries and strawberries. 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.

#### *Dried fruit*

The AMA strongly recommends 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.

### **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).**

The AMA strongly agrees 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 our response to question 2.

However, the AMA strongly disagrees with the mechanism for these claims. All food components listed in claim conditions (a)(ii)-(ix), and their vegetable equivalents, should be included in the 'added sugar' definition in claim condition (a)(i) and NOT as separate components for the purpose of the claims criteria, as currently proposed. Please see the AMA's response to question 1 for more details on why this is necessary.

Across the food supply, it is observed that foods containing fruit and vegetable sugars are more likely to use 'no added sugar' claims than those that do not contain these sugars. Some of the highest categories for claims use including the following foods that typically utilise a range of fruit ingredients: Fruit purees, Fruit bites, Fruit straps and pressed fruit products; and Baby and toddler foods.

In relation to fruit juice specifically, the AMA strongly recommends that any reference to fruit juice should clearly state this includes blended, reconstituted, full strength and diluted juices.

The AMA strongly disagrees 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.

**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).**

The AMA 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, gives these foods a health halo and perpetuates consumer beliefs that these fruit products are healthier than they are. It is also inconsistent with both Australian and New Zealand dietary guidelines which recommend limiting fruit juice consumption.

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. The AMA is especially concerned that allowing 'no added sugar' claims will also perpetuate consumer misunderstanding about sugars in fruit juice.

**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).**

The AMA is strongly supportive of this condition, noting that all proposed amendments to 'no added sugar' claim conditions in our submission should also apply for 'unsweetened' claims.

**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).**

The AMA is very supportive of this timeframe, as 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.

**Contact**

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