

11 September 2023
260-23

Call for submissions – Proposal P1062

Defining added sugars for claims

FSANZ has assessed a proposal to consider amending the Australia New Zealand Food Standards Code to define and clarify added sugars for the purposes of making claims and has prepared a draft food regulatory measure. Pursuant to section 61 of the *Food Standards Australia New Zealand Act 1991* (FSANZ Act), FSANZ now calls for submissions to assist consideration of the draft food regulatory measure.

Submissions can be made via the [FSANZ Consultation Hub](https://consultations.foodstandards.gov.au) (<https://consultations.foodstandards.gov.au>). FSANZ is trialling the Consultation Hub, built on the Citizen Space platform, for public consultations on applications and proposals to change the Code.

All submissions on applications and proposals will be published on our website (see [information for submitters](#) on our website for further details). We will not publish material that we accept as confidential. In-confidence submissions may be subject to release under the provisions of the *Freedom of Information Act 1982*. Submissions will be published as soon as possible after the end of the submission period.

Under section 114 of the FSANZ Act, some information provided to FSANZ cannot be disclosed. More information about the disclosure of confidential commercial information is available on the FSANZ website at [information for submitters](#).

For information on how FSANZ manages personal information when you make a submission, see FSANZ's [Privacy Policy](#).

FSANZ also accepts submissions in hard copy to our Australia and/or New Zealand offices. There is no need to send a hard copy of your submission if you have submitted it through the FSANZ Consultation Hub. FSANZ endeavours to formally acknowledge receipt of hard copy submissions within 3 business days.

DEADLINE FOR SUBMISSIONS: 6pm (Canberra time) 3 October 2023

Submissions received after this date will not be considered unless an extension had been given before the closing date. Extensions will only be granted due to extraordinary circumstances during the submission period. Any agreed extension will be notified on the FSANZ website and will apply to all submitters.

Questions about making a submission or application and proposal processes can be sent to standards.management@foodstandards.gov.au.

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Supporting document

The [following document](#) which informed the assessment of this proposal is available on the [FSANZ Consultation Hub](#) and the [FSANZ website](#):

SD1 Consumer Evidence Summary: ‘No Added Sugar’ Claims

Executive summary

Food Standards Australia New Zealand (FSANZ) has assessed a proposal to clarify the Australia New Zealand Food Standards Code (the Code) requirements for making voluntary nutrition content claims about added sugars in food.

Australian and New Zealand dietary guidelines recommend people limit their intake of food and drinks containing added sugar. Consumers need to be able to make informed choices about sugar in their diet in line with these guidelines.

Standard 1.2.7 and schedule 4 of the Code currently regulate and permit voluntary 'no added sugar(s)' claims about added sugar content in food for sale if certain conditions are met. These conditions were developed before the release of current dietary guidelines, and it is unclear whether the extent to which this type of content claim aligns with dietary guidelines and supports consumers to make informed choices.

At the request of Australian and New Zealand food ministers, FSANZ has reviewed the requirements for making voluntary nutrition content claims about added sugars to determine whether there is a need to amend the Code to:

- clarify and define added sugars for the purposes of making 'no added sugar(s)' nutrition content claims; and
- align added sugar claims with dietary guidelines.

FSANZ's assessment is that there is a need to amend schedule 4 to clarify and align the conditions for 'no added sugar(s)' nutrition content claims.

In making that assessment, FSANZ considered Australian and New Zealand dietary guidelines, international and overseas approaches, Ministerial policy guidance (see section 2), and the prevalence of products carrying claims in the marketplace. We undertook a rapid literature review to examine the available evidence on consumer value, perceptions and behaviours in response to 'no added sugar(s)' claims on food products (see section 3). We engaged with government food and health agencies on this proposal and had regard to the views provided by public health, consumer, industry and jurisdictional stakeholders through targeted consultation on related Proposal P1058 – Nutrition labelling about added sugars (see section 4). The costs and benefits that may arise in relation to this proposal were considered (Attachment E).

Based on the available evidence and for reasons set out in this call for submissions (CFS), FSANZ has prepared a draft variation to the Code (Attachment A), which, if approved, would amend schedule 4 to clarify the existing permission to make nutrition content claims about added sugar on food. The proposed amendments would:

- continue to set 'no added sugar(s)' and 'unsweetened' claim conditions based on the addition of ingredients to foods;
- provide an express definition of what is an 'added sugars' for the purpose of 'no added sugar(s)' claim conditions; and
- establish conditions for fruit products and food containing sugars produced from hydrolysis during food production.

The proposed amendments are intended to provide:

- clarity and certainty for industry and government in the implementation and enforcement of the voluntary nutrition content claims permitted to be made about added sugars in food; and
- information to consumers to enable them to make informed choices consistent with Australian and New Zealand dietary guideline recommendations about sugars.

FSANZ seeks submissions on the proposed draft variation.

1 Introduction

1.1 The proposal

The purpose of this proposal is to consider the need to amend the Australia New Zealand Food Standards Code (the Code) to define and clarify added sugars for the purposes of making voluntary nutrition content claims about added sugars.

1.2 Reasons for preparing the proposal

The Code permits voluntary 'no added sugar(s)' nutrition content claims to be made on foods subject to certain conditions.

Dietary guidelines provide evidence-based population health advice on healthy eating and the prevention of chronic diseases. The Australian and New Zealand dietary guidelines include recommendations about added sugars intake, being to limit intake of foods and drinks containing added sugars (Australia¹), and to choose and/or prepare foods and drinks with little or no added sugars (New Zealand²). The dietary guidelines also note sugars occur naturally in foods such as fruit, vegetables, grains and dairy products, and are also added to foods. The existing conditions for making 'no added sugar(s)' claims were developed prior to the release of the current dietary guidelines.

Ministerial policy guidance is that food labels, including voluntary information such as claims, provide adequate information to enable consumers to make informed food choices to support healthy dietary patterns recommended in the dietary guidelines³; and that claims support initiatives that promote healthy food choices by the population⁴.

It is unclear whether the 'no added sugar(s)' claim conditions in the Code align with the current Australian and New Zealand dietary guidelines, and support consumers to make informed choices in line with these guidelines when purchasing products with added sugars claims. Available evidence suggests the presence of 'no added sugar(s)' claims may influence consumers' perceptions of healthfulness of a food.

FSANZ is undertaking work on added sugars labelling in the nutrition information panel (NIP) under Proposal P1058 – Nutrition labelling about added sugars (see section 2.2.1). In response to a request from food ministers⁵, FSANZ is staging work on added sugars by considering whether there is a need to amend the Code to:

- clarify and define added sugars for the purposes of making 'no added sugar(s)' nutrition content claims; and
- align added sugar claims with dietary guidelines, while work including consumer research continues under P1058.

1.3 Procedure for assessment

The proposal is being assessed under the General Procedure of the *Food Standards Australia New Zealand Act 1991* (FSANZ Act).

¹ [Australian dietary guideline documents](#)

² [New Zealand dietary guideline documents](#)

³ [Policy guideline on food labelling to support consumers to make informed healthy food choices](#)

⁴ [Policy guideline on nutrition, health and related claims](#)

⁵ [Food Ministers' Meeting Communiqué 28 July 2023](#)

1.4 Scope of proposal

This Proposal was prepared to review the requirements for making voluntary nutrition content claims about added sugars to determine whether there is a need to amend the Code to:

- clarify and define added sugars for the purposes of making ‘no added sugar(s)’ nutrition content claims; and
- align added sugar claims with dietary guidelines.

Its scope is limited to definition and clarification of added sugars for the purposes of making ‘no added sugar(s)’ and ‘unsweetened’ (or synonyms) nutrition content claims. Whether such claims should be permitted per se is out of scope, as are other permitted nutrition content claims about sugar or sugars and the conditions.

2 Background

2.1 Current standards

The requirements for making nutrition content claims are set out in Division 4 of Standard 1.2.7 – Nutrition, health and related claims and Schedule 4 – Nutrition, health and related claims.

The table in section S4—3 of schedule 4 sets out the property of food⁶ (Column 1) along with general claim conditions (Column 2) that must be met when making a nutrition content claim about the property of food, and claim conditions (Column 4) for specific descriptors (Column 3), which must be met (in addition to the general claim conditions) when making nutrition content claims about a property of food using the associated descriptor (or synonym⁷). The conditions for the property of food ‘Sugar or sugars’ are in this table.

For nutrition content claims about sugar or sugars, there are no general claim conditions but there are specific conditions for ‘% free’, ‘low’, ‘reduced (or light/lite)’, ‘no added’ and ‘unsweetened’ claims or claims using synonyms of those descriptors.

The table to S4—3 in schedule 4 sets out the conditions that must be met for a food to make a ‘no added sugar(s)’ claim as follows:

- (a) *The food contains no added sugars*, honey, malt, or malt extracts; and*
- (b) *the food contains no added concentrated fruit juice or deionised fruit juice, unless the food is any of the following:*
 - (i) *a brewed soft drink;*
 - (ii) *an electrolyte drink;*
 - (iii) *an electrolyte drink base;*
 - (iv) *juice blend;*
 - (v) *a formulated beverage;*
 - (vi) *fruit juice;*
 - (vii) *fruit drink;*
 - (viii) *vegetable juice;*
 - (ix) *mineral water or spring water;*
 - (x) *a non-alcoholic beverage.*

⁶ **property of food** means a component, ingredient, constituent or other feature of food (see section 1.1.2—2 of the Code).

⁷ As per section 1.2.7—12(3) of Standard 1.2.7

A food can make an 'unsweetened' claim if it meets the above conditions for a nutrition content claim about no added sugar and *contains no intense sweeteners, sorbitol, mannitol, glycerol, xylitol, isomalt, maltitol syrup or lactitol*.

Standard 1.1.2 of the Code defines 'sugars' for the purposes of standard 1.2.7 and schedule 4 (except where it appears with an asterisk as 'sugars*'), to mean *monosaccharides and disaccharides*.

In schedule 4, sugars* is relevant for 'no added sugar(s)' and 'unsweetened' nutrition content claims and *means any of the following products, derived from any source:*

- (i) *hexose monosaccharides and disaccharides, including dextrose, fructose, sucrose and lactose;*
 - (ii) *starch hydrolysate;*
 - (iii) *glucose syrups, maltodextrin and similar products;*
 - (iv) *products derived at a sugar refinery, including brown sugar and molasses;*
 - (v) *icing sugar;*
 - (vi) *invert sugar;*
 - (vii) *fruit sugar syrup;*
- but does not include:*
- (i) *malt or malt extracts; or*
 - (ii) *sorbitol, mannitol, glycerol, xylitol, polydextrose, isomalt, maltitol, maltitol syrup, erythritol or lactitol.*

2.2 Related applications and proposals

2.2.1 Proposal P1058 – Nutrition labelling about added sugars

In April 2022, FSANZ prepared Proposal P1058 – Nutrition labelling about added sugars⁸. The proposal is reviewing the need to amend the Code to include added sugars information in the NIP in light of food ministers' desired policy outcome of providing contextual information about sugars to enable consumers to make informed choices in support of dietary guidelines. This proposal follows a review of nutrition labelling for added sugars⁹, completed in 2021. FSANZ undertook targeted stakeholder consultation on Proposal P1058 in September 2022 to canvass early views on technical matters including a proposed definition of 'added sugars' for the purpose of added sugars information in the NIP (see section 4.1).

In July 2023, FSANZ provided an update to the Food Ministers' Meeting (FMM) about its assessment to date of Proposal P1058¹⁰. The assessment identified complexities and challenges which indicate the proposal may not achieve the desired policy outcome. Ministers discussed alternative approaches to stage the delivery of this work, including the option of incorporating a definition of added sugars in the Code that aligned with dietary guidelines and then, through appropriate consumer testing, considering whether and how best to incorporate added sugars information in the NIP. Ministers also agreed to FSANZ undertaking consumer research on alternative labelling approaches to providing contextual information in addition to consumer testing added sugars in the NIP. FSANZ expects to progress consumer testing and research under P1058 alongside this proposal.

⁸ [Proposal P1058 – Nutrition labelling about added sugars](#)

⁹ [Review of nutrition labelling for added sugars](#)

¹⁰ [Food Ministers' meeting Communique 28 July 2023](#)

2.2.2 Proposal P1049 – Carbohydrate and sugar claims on alcoholic beverages

Proposal P1049 – Carbohydrate and sugar claims on alcoholic beverages¹¹ commenced in 2018 in response to a request from food ministers to consider the need to clarify requirements for making voluntary nutrition content claims about carbohydrate and sugar on food that contains more than 1.15% alcohol by volume (ABV), including alcoholic beverages.

After assessment, FSANZ issued a call for submissions (CFS) report on proposed amendments to clarify that claims about carbohydrate and sugar(s) are permitted on food containing more than 1.15% ABV. The existing conditions for making nutrition content claims about sugar(s) would apply to food that contains more than 1.15% ABV. Public consultation on the CFS report closed on 4 September 2023. It is anticipated the FSANZ Board will consider a final report on P1049 in June 2024. Any changes to the conditions for making 'no added sugar(s)' claims that may arise from P1062 would apply to food containing more than 1.15% ABV if amendments proposed under P1049 are approved.

2.2.3 Application A1247 – D-allulose as a novel food

FSANZ is assessing Application A1247 – D-allulose as a novel food¹² which seeks to amend the Code to permit the sale of D-allulose as a novel food. If permitted, D-allulose will be added to foods as a low-energy substitute for sugar. In response to the applicant's request, FSANZ is considering whether it is appropriate to permit the nutrition content claims '% free', 'low sugar(s)', 'reduced/lite' and 'no added sugar(s)' on foods that contain D-allulose and otherwise meet existing claim conditions.

A call for submissions report is expected to be released for public consultation in 2023.

2.3 Ministerial policy guidance

2.3.1 Policy guideline on food labelling to support consumers to make informed healthy choices

In August 2020, the FMM (then the Australia and New Zealand Ministerial Forum on Food Regulation) endorsed the *Policy Guideline on Food Labelling to Support Consumers to Make Informed Healthy Choices*¹³. The overall aim of this policy guideline is that ministers expect food labels (including optional information) *to provide adequate information to enable consumers to make informed food choices to support healthy dietary patterns recommended in the Dietary Guidelines*.

The Policy Guideline notes *Dietary Guidelines* refers to the following documents: Australian Dietary Guidelines, Australian Infant Feeding Guidelines, New Zealand Eating and Activity Guidelines and New Zealand Food and Nutrition Guidelines for other specified age and stage groups.

The context of the policy guidance states that:

- *While there are some differences between the Dietary Guidelines in Australia and New Zealand, the dietary patterns recommended in both Dietary Guidelines are largely consistent; and*
- *To support consumer understanding and use of food labelling, there is a role for education and promotion of the Dietary Guidelines to raise consumers' awareness and understanding about healthy dietary patterns.*

¹¹ [Proposal P1049 - Carbohydrate and sugar claims on alcoholic beverages](#)

¹² [Application A1247 – D-allulose as a novel food](#)

¹³ [Policy Guideline on Food Labelling to Support Consumers make Informed Healthy Choices](#)

It also recognises where additional optional information is provided on a food label, such as by nutrition, health and related claims, that other policy guidance may also be relevant.

2.3.2 Policy guideline on nutrition, health and related claims

In December 2003, the FMM (then the Australia and New Zealand Food Regulation Ministerial Council) endorsed a Policy Guideline on Nutrition, Health and Related Claims¹⁴ to assist with the development of standard 1.2.7. This policy was updated and re-endorsed by food ministers in 2018.

The policy outlines principles for the regulation of nutrition, health and related claims including, among others, that any intervention by government should:

- *enable better engagement of sectors other than government in providing nutritional advice and information; and*
- *support government, community and industry initiatives that promote healthy food choices by the population.*

The policy also sets out desirable features of a regulatory system for nutrition, health and related claims including that the system should:

- *promote a partnership between consumers, governments and industry in the delivery and responsible use of nutrition, health and related claims which protects consumers from false and misleading information that may result in distorted diets which harm health and increase health inequalities.*

2.4 Dietary guidelines¹⁵

Dietary guidelines provide evidence-based population health advice on healthy eating and the prevention of chronic diseases to improve public health outcomes and reduce the costs associated with poor nutrition. Both the Australian and New Zealand dietary guidelines recommend to limit added sugars intake due to increased risk of excess weight gain and dental caries. The following sections outline the respective dietary guideline recommendations for Australia and New Zealand relating to sugar.

2.4.1 Australia

Guideline 3 of the Australian Dietary Guidelines is *Limit intake of foods containing saturated fat, added salt, added sugars and alcohol* (NHMRC 2013). Specifically for added sugars, the guidelines recommend the following:

- *Limit intake of foods and drinks containing added sugars such as confectionary, sugar-sweetened soft drinks and cordials, fruit drinks, vitamin waters, energy and sports drinks.*

The dietary guidelines note sugars provide a readily absorbed source of energy, but added sugars can increase the energy content of the diet while diluting its nutrient density.

Guideline 2 recommends people enjoy a wide variety of nutritious foods including plenty of vegetables and fruit, noting fresh or raw/whole forms should mostly be eaten. Some processed fruits and vegetables, such as frozen and canned varieties in natural juices, are noted as nutritious alternatives as long as they are produced without added sugar (including concentrated fruit juice). Serve sizes of 125 mL (1/2 cup) of 100% fruit juice and 30 g of dried fruit are recommended, preferably with *no added sugar, and only to be used occasionally as a substitute for other foods in the group.*

¹⁴ [Policy Guideline on Nutrition, Health and Related Claims](#)

¹⁵ Throughout the report 'dietary guidelines' is used generically to refer to both the Australian and New Zealand dietary guidelines for adults unless specified.

In relation to infants and young children, the guidelines refer to puréed and mashed vegetables and fruit as being important in the diets of infants, however, fruit juice is not recommended. For children over 12 months whole fruit is preferable to fruit juice due to its higher fibre content.

2.4.2 New Zealand

The Eating and Activity Guidelines for New Zealand Adults (New Zealand Ministry of Health (MoH) 2020) recommend enjoying a variety of nutritious foods including plenty of vegetables and fruit (Eating Statement 1). They note seasonal fresh vegetables and fruit are great choices and that frozen and canned varieties (drained and with no added sugar) are also good options.

Eating Statement 2 includes *Choose and/or prepare food and drinks: with little or no added sugar* and notes that *adding sugar increases the energy (kilojoules) content of food and drinks but adds no other useful nutrients*.

The guidelines refer to the World Health Organization (WHO)¹⁶ recommendations to reduce intake of free sugars (which include naturally-occurring sugars such as fruit juice and fruit juice concentrates) as a reason for the recommendation on added sugars.

The guidelines identify sugary drinks as including fruit juice, fruit drinks, powdered drinks, cordial, carbonated or fizzy drinks, energy drinks, sports drinks and flavoured waters and that *major sources of added sugars in New Zealanders diets include: non-alcoholic beverages such as....fruit juice*.

The New Zealand guidelines note dried fruit as a very high-sugar snack that sticks more easily to teeth, increasing the risk of cavities, and recommend limiting the amount of dried fruit included in the diet.

For older adults (65 years and older), the MoH recommends most vegetables and fruit consumed are fresh, frozen and/or canned. However, if juice or dried fruit is consumed, only one serving of juice (250 mL) or dried fruit (2 tablespoons) counts towards the total number of servings for the day (MoH 2013).

The Healthy Eating Guidelines for New Zealand Babies and Toddlers (0–2 years old) (MoH 2021) recommend when preparing food for babies or toddlers to not add sugar and, if using commercially prepared foods, to choose those with no added sugars. Fruit juice and drinks are not recommended for infants and toddlers.

For children and young people, the MoH recommends limiting intake of fruit juice to no more than one diluted glass per day, equating to a maximum of 250 mL after the juice has been diluted (MoH 2015).

2.5 History of added sugar claims

Standard 1.2.7 was developed under Proposal P293 – Nutrition, Health and Related Claims¹⁷ and gazetted in 2013 with a three year transition period. The existing ‘no added sugar(s)’ and ‘unsweetened’ claim conditions were developed at this time.

¹⁶ [WHO Guideline: Sugars intake for adults and children \(2015\)](#)

¹⁷ [Proposal P293 – Nutrition, Health and Related Claims](#)

A key aspect to the development of standard 1.2.7 was to *promote informed food choices in line with nationally accepted guidelines for healthy eating to minimise the risk of consumers being misled by marketing and promotional claims* (FSANZ 2008).

Subsequent to the gazettal of standard 1.2.7, the Australian Dietary Guidelines were reviewed and updated in 2013 and the Eating and Activity Guidelines for New Zealand Adults in 2015 and again in 2020. The existing conditions for making 'no added sugar(s)' claims are therefore based on past dietary guidelines and may therefore not align with current dietary guidelines as originally intended.

The previous Australian Dietary Guidelines (NHMRC 2003) noted fruit juice is a *good source of fluids and some vitamins but has kilojoules so enjoy in moderation*, and provided a serving size example of 1/2 cup. The guidelines did not specifically limit dried fruit but did recommend example serving sizes (e.g. 4 apricots). This contrasts to the current guidelines (NHMRC 2013) which recommend fruit juice and dried fruit *only be used occasionally and preferably with no added sugar* (see section 2.4.1).

The earlier New Zealand dietary guidelines (MoH 2003) recommended to limit fruit juice consumption because of its high sugar content and noted dried fruit is a concentrated form of sugar/contains a significant amount of sugar. The current guidelines (MoH 2020) continue to recommend limiting dried fruit, but identify fruit juice as a high sugar drink (see section 2.4.2).

Of relevance to considering the need to clarify and define added sugars for the purposes of making 'no added sugar(s)' nutrition content claims is the approach taken to determining the existing 'no added sugar(s)' claim conditions under P293. This approach did not consider the relative contribution of a potential source of added sugars to the diet but did give consideration to ingredients that are used for sweetening purposes.

2.6 Overseas approaches

FSANZ has reviewed international approaches for regulating 'no added sugar(s)' and similar claims as summarised in Attachment C – International 'no added sugar' and 'unsweetened' claim conditions. Other than Brazil, 'added sugars' is not specifically defined for the purpose of claims. Internationally, claim conditions generally capture sugars added to foods as well as ingredients that substitute for added sugars or sweetening agents. Discussion on relevant overseas claim conditions is included in sections 5.2 and 5.3.

FSANZ has also reviewed definitions for 'added', 'free' and 'liberated' sugars used for various purposes internationally (not for claim purposes) as summarised in Attachment D – International 'added', 'free' and 'liberated' sugar definitions. While there are similarities in the types of sugars defined as 'added' (e.g. available mono- and disaccharides, syrups, honey), the definitions vary in regard to the inclusion/exclusion of sugars naturally present in foods (e.g. fruit juice, pulps, purées, etc). This is due to the difference between 'free sugars' and 'liberated sugars' including naturally occurring sugars, and sugars which are 'added' to foods, as well as differences in national dietary guidelines and the intended use of the definition (e.g. mandatory labelling, intake levels or nutrition surveys).

3 Risk assessment

3.1 Products carrying ‘no added sugar(s)’ claims

3.1.1 Australia

FSANZ undertook a scan of three major Australian supermarkets to identify products within selected product categories that currently carry ‘no added sugar(s)’ and ‘unsweetened’ claims (see Table 1) to understand the prevalence and extent of these claims in the market. A range of sugar-related claims were identified. Of these, 650 products were considered to be carrying a ‘no added sugar(s)’ claim. However, the actual number of products is likely to be higher due to the range of product sizes and flavour options available across different retailers, and because not all product categories were included in the supermarket scan. ‘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.

3.1.2 New Zealand

Similarly, to understand the prevalence and extent of claims in the New Zealand market, New Zealand Food Safety (NZFS) provided data from their GS1 On Pack database for products within selected product categories that were purchased in the past 12 months and contained ‘no added sugar’ or ‘unsweetened’ in the ‘claim’ field of their database (see Table 1 below). From this, 475 products were identified as carrying a claim, however, the actual number of products may be higher as not all ‘no added sugars’/‘unsweetened’ claims may be captured in the claims field.

For the data provided, claims were most commonly found on fruit juice and drinks, processed cereal products (cereals/breads/muesli bars), cereal-based milk substitutes (oat/rice milks) and processed fruit products (dried fruit, fruit balls, purées and snacks).

Table 1: Summary of product categories reviewed for ‘no added sugar(s)’ and ‘unsweetened’ claims

Product category	Product sub-category	Australia	New Zealand
Drinks	Fruit juice & drinks	x	x
	Vegetable juice & drinks	x	x
	Other non-alcoholic beverages	x	
	Cider	x	x
	Other alcoholic beverages		x
Cereals	Breakfast cereals	x	x
	Bread	x*	x
Dairy	Yoghurt	x	
	Dairy desserts	x	
	Milk based protein drinks	x	
Dairy alternatives	Cereal based milks	x	x
	Other dairy alternatives	x	
Fruit	Canned fruit	x	x
	Puréed fruit	x	x
	Dried fruit	x	x
	Frozen fruit	x	
Snack foods	Fruit and nut balls	x	x
	Fruit wraps	x	x
	Muesli/snack bars	x	x
Sauces	Sauces	x	x [#]
Toddler/infant foods	Puréed fruit/vegetable products	x	x
	Other infant/toddler foods	x	

* Product data collected for fruit breads only

Product data collected for spreads, dips and other condiments

3.2 Consumer evidence

FSANZ undertook a rapid literature review of evidence relating to consumer understanding and responses to ‘no added sugar’ claims on food products (see SD1). A total of 19 studies were identified, of which four were undertaken in Australia, one in New Zealand, and one across both countries. The remaining 13 studies were undertaken internationally and thus may not be directly generalisable to the Australian and New Zealand context. Evidence is also drawn from FSANZ’s 2022 literature review of 36 studies relating to added sugar¹⁸, undertaken to support P1058.

3.2.1 Consumer perception of ingredients as ‘added sugar’

The findings presented in SD1 suggest there is significant variation and uncertainty in consumer understanding of whether particular ingredients are ‘added sugars’ and whether they are prohibited on foods bearing a ‘no added sugar’ claim. For example, of the 40 ingredients tested across six studies (see Table 1 of SD1), only six ingredients were considered to be ‘added sugar’ by more than two thirds of participants in at least two studies. Consumer perceptions of ingredients like honey and fructose also varied by up to 65% across studies. Several studies identified some consumers perceive ingredients that are not currently prohibited in foods making ‘no added sugar’ claims to be ‘added sugar’.

¹⁸ [Rapid Systematic Literature Review for P1058](#)

For example, 22–65% perceived fruit juice to be added sugar, while 42–55% perceived fruit paste, 45–55% perceived fruit purée, and 37–50% perceived dried fruit to be sugar when added to another food. In one German study, very high proportions of consumers thought artificial sweeteners were prohibited in products bearing ‘no added sugar’ claims. Other studies identified consumers may perceive ingredients seen as ‘natural’, such as fructose or lactose, as being inherent rather than added, when included in another food. This is consistent with findings from FSANZ’s 2022 literature review on added sugar, which found consumers generally had more positive attitudes towards sugars perceived as ‘natural’ and may not always view these as ‘added sugar’. However, this perception may be reduced where consumers are more familiar with adding ‘natural’ sugar ingredients to other foods. For example, consumers demonstrated greater understanding that honey could be both natural and added, relative to sugar types like lactose, which are less frequently used as a sweetener in home cooking. Several studies in the 2022 literature review also demonstrated that sugar sources perceived as natural or less processed, including fruit sugar, honey and brown sugar, were generally viewed as healthier.

3.2.2 Consumers’ literal interpretation of ‘added sugar’

The 2022 literature review on added sugar also demonstrated consumers commonly understand ‘added sugar’ to be sugar that is added during manufacturing or food preparation, rather than being inherent or naturally occurring in the food. The addition of added sugar was often perceived to be done by manufacturers. However, home cooking was also seen as a key way to reduce added sugar intake.

3.2.3 Influence of ‘no added sugar’ claims on healthfulness perceptions

The majority of studies looking at healthfulness perceptions indicate ‘no added sugar’ claims increase how healthy consumers perceive food products to be. This may be of concern if consumers perceive foods not recommended by dietary guidelines as more healthy. One New Zealand study further investigated the potential for ‘no added sugar’ claims to mislead consumers about the overall healthiness of a product, finding that over one third (36%) of participants believed that cereals with a ‘no added sugar’ claim were definitely healthy. This health halo was significantly worse for those with low incomes, less education, and non-European ethnicity, with 61% of Māori, 66% of Asian and 53% of those with Pacific ethnic backgrounds believing a ‘no added sugar’ claim meant that cereal was definitely healthy. A small number of studies also indicated ‘no added sugar’ claims may make consumers perceive food products to be more natural but less tasty.

3.2.4 Influence of ‘no added sugar’ claims on purchasing decisions

‘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. However, the relative importance of the claim compared to other claims or product attributes depended on the product and the other attributes tested. Rankings ranged from being the most influential attribute for fruit juice when compared to other processing or formulation information, to ninth of 21 attributes related to ‘better for you’ frozen desserts. For infant and toddler foods, ‘no added sugar’ claims were less influential compared to claims such as ‘natural/natural ingredients’ and ‘made with real fruit and vegetables’, ranking sixth of eight claims. For fruit beverages ‘no added sugar’ or ‘less sugar’ claims were rated third of nine attributes, behind claims that were particularly relevant to fruit beverages, such as ‘100% juice’ and ‘a good source of vitamin C’. In one study from the UK that did not consider a specific food product, ‘no added sugar’ remained relatively influential (consistently ranked second of 14 attributes) irrespective of whether someone was shopping for themselves or for children or grandchildren.

Overall, the claim appears to be sought out and utilised by 40–60% of consumers. However, the influence of ‘no added sugar’ claims may differ according to certain demographics. In Australian research, parents who were partnered were more likely to purchase toddler and infant food products because of a ‘no added sugar’ claim, compared to sole parents. There were conflicting results around whether those with lower or higher education were more likely to be influenced by ‘no added sugar’ claims.

3.2.5 Perception of ‘no added sugar’ as meaning no sugar or reduced sugar

Evidence also suggests ‘no added sugar’ claims may not be well understood by some consumers. Between 4-50% of consumers believed a ‘no added sugar’ claim meant the product could not contain any sugar, while 34-91% of consumers interpreted a ‘no added sugar’ claim to mean the product has reduced sugar. One German experiment found ‘no added sugar’ claims only reduced consumers’ estimations of sugar content for chocolate and ketchup, suggesting this effect may differ by product type. The understanding of ‘no added sugar’ claims to mean the food contains no sugar was more common for New Zealanders of non-European ethnicity (including Māori, Pacific and Asian), while in Australia, the misunderstanding occurred for 17-29% of participants even when total sugar information was provided on the back-of-pack.

3.3 Risk assessment summary

The risk assessment has identified that ‘no added sugar(s)’ claims:

- are prevalent in the market, particularly in certain categories of foods;
- are sought out by consumers but may not be well understood by some consumers;
- are commonly understood by consumers to be about sugar that is added during manufacturing or food preparation, rather than being inherent or naturally occurring in the food; and
- can increase how healthy consumers perceive food products to be and can influence purchasing decisions.

These findings suggest consumers may not be supported to make informed choices and could be potentially misled if ‘no added sugar(s)’ claims are not aligned with dietary guidelines.

4 Targeted stakeholder consultations

4.1 Proposal P1058 – September 2022

In September 2022, FSANZ held targeted consultations with public health and consumer groups, industry (including the alcoholic and non-alcoholic beverage sectors) and jurisdictions to canvass early views on technical matters relating to P1058. Representatives from 92 companies and agencies attended with more than 50 providing written comments on technical matters following the meetings.

At the targeted consultations, FSANZ proposed a draft definition of ‘added sugars’ for the purpose of including added sugars information in the NIP. This draft definition included sugars from single strength and concentrated fruit and vegetable juices but not sugars from processed fruit and vegetable products such as dried fruit, pulps and purées.

Stakeholders had polarised views on the proposed definition, particularly in relation to including sugars from fruit products such as fruit juice, dried fruit, pulps and purées.

Public health and consumer stakeholders generally considered sugars from fruit juice and most processed fruit products should be included as 'added sugars', while industry believed these sources of sugar should be excluded. Sections 5.2 and 5.3 provide further detail on stakeholder views relevant to defining added sugars and clarifying claim conditions.

4.2 Government

As food ministers requested FSANZ consider the need to clarify and align any Code definition of added sugars with dietary guidelines, FSANZ consulted with the respective agencies responsible for the dietary guidelines: in Australia the National Health and Medical Research Council (NHMRC) and in New Zealand the NZ Ministry of Health (MoH). Both agencies provided a view on FSANZ's proposed approach to defining and clarifying added sugars for the purpose of making claims, indicating that it generally aligned with each country's respective dietary guidelines.

FSANZ also consulted with government partners from state and territory health and regulatory authorities and the New Zealand Ministry for Primary Industries on the proposed approach to defining and clarifying added sugars for the purpose of making added sugar claims. Comments received were generally supportive of the proposed approach.

5 Risk management

5.1 Approach

Drawing on the above risk assessment, FSANZ has considered the need to define and clarify added sugars for the purpose of making 'no added sugar(s)' claims to align with current dietary guideline recommendations and support consumers to make informed choices.

The approach taken recognises the original intent during the development of standard 1.2.7 to promote informed choices in line with dietary guidelines and to minimise the risk of consumers being misled by claims. In addition consistent with the approach under P293, the relative contribution of a potential source of added sugars to the diet is not considered. However as was the case when the existing conditions were developed, consideration has been given to ingredients that are used for sweetening purposes (see section 2.5).

It has also drawn on ministerial policy guidance (section 2.3), international and overseas approaches (section 2.6), advice from relevant government agencies and stakeholder views provided through associated work on Proposal P1058 (section 4).

5.2 Defining 'added sugars' for claims

5.2.1 Existing no added sugar(s) claim conditions

As identified in section 2.1, existing conditions in schedule 4 of the Code do not permit a 'no added sugar(s)' claim to be made if a food contains certain added products. These products include individual hexose mono- and disaccharides, starch hydrolysate, maltodextrin and various sugars and syrups (as currently captured by sugars*), as well as added honey, malt and malt extract, and added concentrated fruit juice or deionised juice (with exemptions provided for various non-alcoholic beverages).

5.2.1.1 Australian and New Zealand dietary guidelines

Both the Australian and New Zealand dietary guidelines recommend to limit added sugars intake due to increased risk of excess weight gain and dental caries.

The guidelines note sugars occur naturally in foods such as fruit, vegetables, grains and dairy products, and are also added to foods. Australian dietary guidelines specify that the major source of sugar in the Australian diet is sucrose added to foods. In the context of canned or frozen fruits and vegetables, those in natural juices are identified as nutritious alternatives providing they are produced without added sugar *including concentrated fruit juice*.

The New Zealand dietary guidelines notes sugars are *added to foods in the form of white, brown or raw sugar, honey, syrups and extracts*. The New Zealand dietary guidelines for babies and toddlers also lists different forms of sugar that can be used as ingredients to sweeten foods, including: agave nectar, brown sugar, cane sugar, coconut sugar, corn syrup, high-fructose corn syrup, dextrose, fructose, fruit juice concentrate, glucose, honey, invert sugar, maltodextrin, maltose, malt syrup, maple syrup, molasses, raw sugar, syrup.

5.2.1.2 Stakeholder views

While the September 2022 targeted consultation for P1058 sought views on a definition of 'added sugars' for the purpose of the NIP rather than claims, there was general support for including the sugar sources currently captured in the 'no added sugar' claim conditions in an 'added sugars' definition. Some stakeholders also agreed that some amendments could be made to clarify what types of sugar sources are captured. For instance, public health and consumer groups suggested changes were needed to ensure plant-based sugars (e.g. agave sugar, coconut sugar) were clearly captured.

5.2.1.3 Discussion

As identified in section 5.2.1, existing 'no added sugar(s)' claim conditions are based on a food containing no *added sugars**, honey, malt or malt extracts, and concentrated or deionised fruit juice. This is broadly consistent with claim conditions based on addition in other countries (Attachment C) and with consumers' common understanding of 'added sugar' being sugar that is added to a food rather than being inherent or naturally occurring (see section 3.2.2). FSANZ therefore proposes to continue to set claim conditions based on the addition of ingredients to foods.

The consumer evidence (section 3.2.2) suggests there is substantial variation in what ingredients consumers perceive to be an 'added sugar', and that large proportions of people are unsure. It also identified the potential for consumers to perceive ingredients seen as 'natural' as not being an 'added sugar' when added to a food. As such, FSANZ has reviewed the existing sugar sources listed for 'no added sugar(s)' claim conditions to support consumer choices that align with both Australian and New Zealand dietary guideline recommendations about added sugar.

FSANZ considers the products currently captured in the 'no added sugar(s)' claim conditions align with the types of 'sugars' and sugar sources identified in dietary guideline recommendations as added sugars to be limited. FSANZ therefore proposes these products be explicitly defined as 'added sugars' for the purpose of 'no added sugar(s)' claims (see Table 2). A food which has an 'added sugars' added as an ingredient will not be permitted to make a 'no added sugar(s)' claim. As per the current approach, the claim conditions do not apply when a product is the food for sale (e.g. the food for sale is honey).

Defining the products in the existing claim conditions as ‘added sugars’ is generally supported by stakeholders including jurisdictions and the NHMRC and NZ MoH (see section 4.2). These products are also generally consistent with the types of products captured in conditions for making ‘no added sugar’ (or similar) claims internationally (Attachment C) and overseas definitions for ‘added sugar’ (Attachment D).

For the purposes of defining ‘added sugars’ for claims, FSANZ proposes to modify the list of products captured by the existing claim conditions to provide clarity and to add or amend exemptions. Table 2 below outlines the proposed definition and identifies where changes to existing claim conditions are proposed and the reason for the change.

Table 2: Proposed products to be included in the definition of ‘added sugars’ for claim purposes based on existing claim conditions

Existing claim conditions proposed to be included in definition	Rationale for proposed change to existing claim condition for ‘added sugars’ definition
<p><i>Sugars*</i> (as defined in schedule 4) means any of the following products derived from any source:</p> <ul style="list-style-type: none"> i. <i>hexose monosaccharides and disaccharides including dextrose, fructose, sucrose, and lactose</i> ii. <i>starch hydrolysate</i> iii. <i>glucose syrups, maltodextrin and similar products</i> iv. <i>products derived at a sugar refinery including brown sugar and molasses</i> v. <i>icing sugar</i> vi. <i>invert sugar</i> vii. <i>fruit sugar syrup</i> 	<p><i>Added sugars</i> means any of the following derived from any source:</p> <ul style="list-style-type: none"> i. Change to <i>hexose monosaccharides and disaccharides</i> noting the ‘including’ list is not needed as any hexose monosaccharide and disaccharide would be captured. ii., iii. No changes. iv. Change ‘including’ list to specify brown sugar, molasses, raw sugar, golden syrup, treacle. Although ‘including’ does not mean this is a comprehensive list, the additions provide further clarity about the types of products which can be made at a sugar refinery. v, vi No changes vii. Change to <i>sugar and sugar syrup derived from plants</i> to capture fruit and other plant-based syrups and sugars such as agave, palm, rice and coconut.
<i>Honey</i>	No change
<i>Malt and malt extracts</i>	No change
<i>Concentrated fruit juice</i>	<p>Change existing exemption for currently listed beverages which contain added <i>concentrated fruit juice</i> (see section 2.1) to only when the food is fruit juice. See discussion in section 5.3.1.</p> <p>Provide an exemption for concentrated lime or lemon juice. See section 5.3.1.</p>
<i>Deionised fruit juice</i>	Provide an exemption for deionised lime or lemon juice. See section 5.3.1.

FSANZ also proposes to clarify that a food displaying a ‘no added sugar(s)’ claim must not contain an ‘added sugars’ as an added ingredient including ingredient of a compound ingredient¹⁹ (e.g. jam (which contains sugar) cannot be added as an ingredient).

¹⁹ *Compound ingredient* is defined in section 1.1.2—2 of the Code to mean ‘an ingredient of a food is a compound ingredient if it is itself made from two or more ingredients’.

5.2.1.4 Proposed approach

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 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.

5.2.2 Low energy sugars

5.2.2.1 D-tagatose

Currently foods displaying 'no added sugar(s)' claims are not permitted to contain added hexose monosaccharides and as discussed above it is proposed to maintain this approach (see section 5.2.1).

D-tagatose is a lower energy hexose monosaccharide permitted for use in Australia and New Zealand. While specific consideration has not previously been given to whether foods containing D-tagatose should be permitted to display 'no added sugar(s)' claims, the current claim conditions do not permit such claims.

To date, D-tagatose is the only low energy monosaccharide or disaccharide permitted for use, however, as noted earlier, FSANZ is currently assessing Application A1247 (D-allulose as a novel food)²⁰.

D-tagatose has an energy value of 11 kJ/g (compared with 17 kJ/g (4.0 kcal/g) for carbohydrates in the Code) (subsection S11—2(3) of schedule 11). D-tagatose has technological properties similar to traditional sugars, however, it differs in that it is only partially absorbed by the body resulting in its reduced energy value. About 20–25% is absorbed from the small intestine, leaving 75–80%, which is available for fermentation in the large bowel. The major fraction of D-tagatose reaches the large intestine unabsorbed (where it undergoes fermentation). D-tagatose does not promote tooth decay and has minimal effects on blood glucose and insulin levels²¹. To date, the high price of D-tagatose has limited its use in foods.

²⁰ [Application A1247 – D-allulose as a novel food](#)

²¹ [Application A472 – D-tagatose as a novel food](#)

5.2.2.2 Australian and New Zealand dietary guidelines

There is no reference to low energy sugars in the dietary guidelines.

5.2.2.3 Stakeholder views

The September 2022 targeted consultations for P1058 discussed whether low energy sugars (monosaccharides or disaccharides) < 17 kJ/g and listed in subsection S11—2(3) of schedule 11 should be considered ‘added sugars’ for the purpose of quantification in the NIP. Specific views on whether low energy sugars should be included in ‘no added sugar(s)’ claim conditions were not sought.

Public health and consumer stakeholders considered low energy sugars should be ‘added sugars’ for the purpose of NIP declarations. They noted substances like D-tagatose could contribute a significant amount of energy to the diet if it is more widely used in the future. They also thought excluding low energy sugars from ‘added sugars’ could be confusing for consumers as not all sugars would be included and low energy sugars can contribute sweetness.

In contrast, industry stakeholders supported excluding low energy sugars from ‘added sugars’ given their low energy contribution to the diet. They suggested a consistent approach could be taken with all substances listed in subsection S11—2(3) of schedule 11 which would simplify implementation. Industry stakeholders noted low energy sugars at levels used in products do not contribute significant energy, do not contribute to tooth decay and do not markedly elevate blood sugar levels.

Jurisdictions had mixed views with some suggesting determining whether low energy sugars are ‘added sugars’ would best be done by applying criteria on a case-by-case basis when permission for use is sought. While some jurisdictions supported including low energy sugars as ‘added sugars’ due to them providing some energy and encouraging a consumer preference for sweetness, others gave in-principle support to exclude low energy sugars, noting the preference for case-by-case assessment. Similar to public health stakeholders, jurisdictions also thought there was potential for consumers to be confused if low energy sugars were excluded from ‘added sugars’. Jurisdictions commented that while excluding low energy sugars from ‘added sugars’ could encourage industry innovation to reduce sugars added to products, it is more of a concern that exclusion could create a loophole for displaying the ‘no added sugar(s)’ claim.

5.2.2.4 Discussion

The dietary guidelines recommend limiting added sugars intake because of the energy contribution from sugars to the diet and because sugars contribute to tooth decay. While D-tagatose is a lower energy sugar (and does not contribute to tooth decay), it contains 65% of the energy content of other monosaccharides and disaccharides (11 kJ/g vs 17 kJ/g used in the Code). For this reason FSANZ proposes to maintain the existing claim conditions such that foods containing D-tagatose, as an ingredient, would not be permitted to display a ‘no added sugar(s)’ claim. D-tagatose is captured in the definition of ‘added sugars’ as a ‘hexose monosaccharide’. In response to stakeholder comments about low energy sugars contributing to product sweetness, we propose foods containing low energy sugars (mono- and disaccharides) listed in subsection S11—2(3) of schedule 11 not be permitted to display ‘unsweetened’ claims.

The proposed approach for D-tagatose aligns with the US Food & Drug Administration's clarification that D-tagatose is an added sugar²². It appears that while other countries do not explicitly mention low energy sugars in conditions for 'no added sugar(s)' claims, their general conditions appear not to permit low energy sugars (that are monosaccharides or disaccharides) in foods displaying the claim (see Attachment C).

Due to varying energy levels of the low energy sugars and the potential for these substances to vary in other properties, FSANZ proposes permissions to make claims should be assessed on a case-by-case basis when permission for use is sought.

5.2.2.5 Proposed approach

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'.

FSANZ proposes foods containing low energy sugars (monosaccharides and disaccharides), as ingredients, listed in subsection S11—2(3) of schedule 11 **not be permitted** to display 'unsweetened' claims.

5.3 Clarifying 'no added sugar(s)' claim conditions

In addition to defining 'added sugars' for the purpose of claim conditions (see section 5.2), FSANZ has also considered whether other products should be captured in claim conditions to align with dietary guidelines. Specifically, FSANZ has considered whether sugars from fruit products and sugars produced from hydrolysis during food manufacture should be captured.

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.

5.3.1 Sugars from fruit products

Currently, foods displaying 'no added sugar(s)' claims are not permitted to contain added concentrated fruit juice, unless the food is a non-alcoholic beverage or brewed soft drink as listed in the claim conditions in schedule 4 (see section 2.1). Other fruit products such as fruit juice (non-concentrated), dried fruit, fruit pulps or purées are not captured in the existing claim conditions.

5.3.1.1 Australian and New Zealand dietary guidelines

Both Australian and New Zealand dietary guidelines recommend eating plenty of vegetables and fruit, noting fresh or raw/whole forms should mostly be eaten. Australian guidelines also recommend canned or frozen fruits in natural juices are nutritious alternatives, providing they are produced without added sugar, including concentrated fruit juice. New Zealand guidelines also note that frozen and canned fruit are good options and to look for those with the least sugar.

²² [US FDA's response to petition requesting exemption of D-tagatose as an added sugar](#)

Both dietary guidelines also specifically refer to fruit juice and dried fruit, but differ in regard to their recommendations for these. Australian guidelines include 100% fruit juice (125 mL) and dried fruit (30 g) as a serve of fruit to be used occasionally as a substitute for other foods in the group and preferably with no added sugar. New Zealand guidelines refer to fruit juice and dried fruit as being high in sugar and recommend to choose plain water or diet drinks rather than fruit juice, and to limit the amount of dried fruit included in the diet.

Australian dietary guidelines note the low fibre content of fruit juice and the high energy density and 'stickiness' (which may have implications for dental caries) of dried fruit. Fruit juice, including pulp, is noted as a good source of vitamin C and folate and provides fibre and carbohydrates, particularly natural sugars. It also notes fruit juice is energy dense and if consumed in excess, can displace other nutritious foods from the diet and may lead to problems such as obesity.

The New Zealand guidelines note fruit juice is a high-sugar drink as it contains all the naturally occurring sugar found in the many pieces of fruit required to make one glass of juice. It also identifies fruit juice within the group of non-alcoholic beverages as a major source of added sugars in New Zealanders' diets. The guidelines note dried fruit has most of its water removed, concentrating all the sugar, and that it can be easier to eat numerous pieces at one time, making it a high-sugar snack that sticks more easily to teeth, increasing the risk of cavities.

Both Australian and New Zealand dietary guidelines for infants recommend fruit juice should not be consumed. For children over 12 months, whole fruit is preferable to fruit juice due to its higher fibre content.

The New Zealand guidelines for children and young people (2–18 years), and the guidelines for older people, advise including fruit juice (250 mL) and dried fruit (2 tablespoons for older people) as a serving of fruit. The guideline for children and young people also advises fruit juice is *no-added-sugar fruit juice*, and if choosing juice, to limit intake to no more than one diluted glass per day (a maximum of 250 mL after dilution). It also advises that fruit juice is high in sugar, even if the label says it contains no added sugar.

In relation to fruit purées, Australian infant feeding guidelines note these as being important in the diets of infants. New Zealand dietary guidelines for infants and young children also identify these for inclusion in the diets of infants (at around 6 months of age).

5.3.1.2 Stakeholder views

As discussed in section 4.1, at the September 2022 targeted consultation for P1058, stakeholders had polarised views on the inclusion of fruit products such as fruit juice, dried fruit, pulps and purées in the draft definition of 'added sugars' proposed for the purpose of the NIP. Industry stakeholders generally opposed including such fruit products, noting the Australian Dietary Guidelines include fruit juice and dried fruit as core foods and that these foods provide beneficial nutrients compared to refined sugar.

Public health, consumer and some government stakeholders considered that given the dietary guidelines recommend fruit juice and dried fruit consumption be limited (or not consumed in the case of New Zealand dietary guidelines for fruit juice), and fruit products can contribute significant amounts of sugar and have reduced beneficial nutrients compared with fresh fruit, that sugars from fruit juice and most fruit products (e.g. purées and pastes) should be included. These stakeholders had mixed views on whether sugars from dried fruit should be included because of the beneficial nutrients they provide.

5.3.1.3 Discussion

The consumer evidence (see section 3.2) suggests ‘no added sugar’ claims are often sought out and can have an influence on food purchasing decisions, including for infant and toddler foods, fruit beverages and fruit juices. However, the relative importance of the claim compared to other claims or product attributes depended on the product and the other attributes tested. The evidence also suggests ‘no added sugar’ claims can increase how healthy consumers perceive food products to be. While Australian and New Zealand dietary guidelines identify fruit juice and dried fruit as foods which should be limited (or avoided for fruit juice in New Zealand), FSANZ considers they do not identify these foods as ‘added sugars’, a position confirmed by both the NHMRC and MoH. As noted in section 5.3.1.1, the Australian dietary guidelines include fruit juice (125 mL) and dried fruit (30 g) as a serve of fruit to be used occasionally as a substitute for other foods in the group and *preferably with no added sugars*, indicating they are not themselves ‘added sugars’. New Zealand guidelines refer to fruit juice and dried fruit as *high in sugar* foods.

These foods, while not ‘added sugars’ per the proposed definition for claim purposes (see section 5.2), can be used for sweetening purposes and contribute sugar to the diet as identified in the dietary guidelines. The consumer evidence (see section 3.2) suggests ingredients perceived as natural or less processed are generally viewed as healthier. Thus, the use of fruit products as ingredients in foods appear to increase healthfulness perceptions and may contribute to health halo effects around products utilising sugars from fruit products. FSANZ therefore proposes to include certain fruit products in claim conditions when added as ingredients to a food.

As discussed in section 2.6, international claim conditions generally capture sugars added to foods as well as ingredients that substitute for added sugars or sweetening agents. For instance, Canada prohibits functional substitutes for sweetening agents from making a ‘no added sugar’ claim and identifies fruit juice, fruit paste, fruit purée and fruit purée concentrate within a list of functional substitutes (Attachment C). Whilst fruit products may be used for other functions (e.g. flavour, colour, texture), to support dietary guidelines in relation to reducing sugar intake, it is proposed ‘no added sugar(s)’ claims not be permitted, irrespective of the intended technological function.

A food will not be permitted to make a ‘no added sugar(s)’ claim when the following fruit products are added as an ingredient including an ingredient of a compound ingredient²³ (with some exemptions). For this purpose, FSANZ proposes to clarify that *fruit* does not include legumes, fungi, herbs, nuts, spices or seeds.

- Dried fruit, other than whole, cut or chopped dried fruit
- Fruit juice (other than concentrated fruit juice which is defined as an ‘added sugars’—see section 5.2), unless the food for sale is canned or frozen fruit
- Fruit juice powder
- Fruit powder
- Fruit pulp
- Fruit purée
- Concentrated fruit purée

But does not include:

- Lemon or lime fruit products (e.g. lemon or lime juice).

FSANZ has considered each of these products in the context of dietary guideline recommendations as discussed below.

²³ *Compound ingredient* is defined in section 1.1.2—2 of the Code.

Dried fruit other than whole, cut or chopped dried fruit

Dietary guidelines recommend to limit consumption of dried fruit (e.g. 30g occasionally in Australia). New Zealand guidelines note the sugar content of dried fruit has been concentrated. While public health stakeholders at the September 2022 P1058 consultation had mixed views about whole, cut or chopped dried fruit, they supported the inclusion of further processed dried fruit (e.g. dried fruit pastes or minced dried fruit) as 'added sugars' for the purpose of including sugar in the NIP, noting such products have a greater concentrated sugar content compared to fresh/raw fruit. Internationally, Codex and Canada identify dried fruit paste/fruit paste as substitutes for added sugars or sweetening agents but not whole dried fruit (Attachment C). FSANZ therefore proposes to not permit 'no added sugar(s)' claims when dried fruit which is not whole, cut or chopped, is added to a food.

Fruit juice and fruit juice powder

Given dietary guidelines identify the low fibre content and high energy/sugar content of fruit juice, FSANZ proposes to not permit 'no added sugar(s)' claims on foods which have fruit juice (i.e. non-concentrated) or fruit juice powder (as a variant of fruit juice) added as an ingredient. As discussed in section 5.2.1, claim conditions will continue to be based on addition to a food. As such, fruit juice which is sold as the food will continue to be able to make a 'no added sugar(s)' claim. The requirements for food sold as fruit juice are set out in standard 2.6.1 of the Code which includes fruit juice and fruit juice blends. The Code also allows fruit juice to contain processing aids, food additives and vitamins and minerals.

As standard 2.6.1 also permits the use of concentrated juice that is reconstituted with water to be sold as fruit juice, an exemption is provided for concentrated fruit juice when used to make fruit juice which is captured in the definition of 'added sugars' (see section 5.2.1). However, FSANZ proposes that other non-alcoholic beverages and alcoholic beverages not be permitted to make a 'no added sugar(s)' claim when fruit juice (or concentrated fruit juice) is added as an ingredient. This is consistent with the addition of fruit juice to any other type of food, although an exemption is proposed for fruit juice added to canned or frozen fruit based on the dietary guidelines recommendation that canned and frozen fruit in natural juices (and not concentrated juice) are nutritious alternatives to fresh fruit.

Fruit purée, concentrated fruit purée, fruit powder and fruit pulp

Dietary guidelines recommend fresh whole or raw fruit to be mostly eaten and refer to the concentrated sugar content or reduced beneficial nutrients (e.g. lower fibre content of fruit juice) of other fruit products (i.e. dried fruit and fruit juice). FSANZ therefore considers the claim conditions should capture fruit purée, concentrated fruit purée, fruit pulp and fruit powder, as they can be used for sweetening purposes and have a concentrated sugar content compared to fresh, raw fruit.

Although dietary guidelines identify fruit purées for use in the diets of infants, the proposed approach accounts for the whole population when fruit purée is added to a food. Additionally, fruit purées sold as such, including blends of fruit purées, will continue to be able to make a 'no added sugar(s)' claim (see 'fruit products sold as such, and fruit product blends' below).

Lemon and lime fruit products

Lemon and lime fruit products are proposed to be exempt as these are acidic and are not used for sweetening purposes. This exemption for lemon and lime fruit products also applies to concentrated fruit juice, concentrated fruit juice powder and deionised fruit juice defined as 'added sugars' (see section 5.2.1). This is similar to Canada's approach to exempt lemon and lime juice (Attachment C).

Fruit products as a food for sale, and fruit product blends

In addition to fruit juice, other fruit products that are the food for sale (e.g. dried fruit, fruit purée and fruit pulp), will continue to be able to make a 'no added sugar(s)' claim, provided they have no 'added sugars' (as defined) or other products identified in claim conditions, added as ingredients. Similar to fruit juice, FSANZ proposes if a fruit product is a food for sale, then a 'no added sugar(s)' claim could be made. This approach includes a fruit product made from one type of fruit (e.g. apple purée) and a blend of different fruits (e.g. apple and boysenberry purées), noting food additives and processing aids are also permitted to be added to such foods. However, a blend or combination of different types of fruit products (e.g. fruit purée with fruit juice) would not be permitted to make a 'no added sugar(s)' claim.

Although this approach will continue to allow claims on foods inherently high in sugars such as fruit juice and dried fruit, the dietary guidelines provide advice on how to choose and consume such foods (e.g. limit dried fruit and choose those with no added sugar or compare the sugar content). Furthermore, this approach recognises food labelling standards are part of the broader food regulatory system and that other public health measures, including consumer education and promotion activities, are also important to enable consumers to make food choices in support of dietary guidelines. This is consistent with ministerial policy guidance which recognises that to support consumer understanding and use of food labelling, there is a role for education and promotion of the dietary guidelines to raise consumers awareness and understanding about healthy dietary patterns²⁴.

5.3.1.4 Proposed approach

FSANZ proposes a food displaying a 'no added sugar(s)' claim must not contain the following fruit products as an added ingredient (including as an ingredient of a compound ingredient):

- 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.

FSANZ proposes to exempt fruit products which are lemon or lime fruit.

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 proposes to clarify that *fruit* does not include legumes, fungi, herbs, nuts, spices or seeds for the purpose of the claim conditions.

²⁴ [Policy Guideline on Food Labelling to Support Consumers to make Informed Healthy Food Choices](#)

5.3.2 Sugars produced from hydrolysis used during food manufacture

Monosaccharides and/or disaccharides can be formed from hydrolysis of carbohydrates during food manufacture to modify viscosity and increase sweetness without adding sugar as an ingoing ingredient (e.g. cereal-based milks such as oat milk).

In the production of oat milk, enzymes may be used to break down oat starch to reduce the viscosity of the oat slurry and control the sweetness of the product. No or less sugar may be added because of the sugars produced from hydrolysis. It is also possible to make oat milk using pre-hydrolysed oat powder but it is more expensive. Currently oat milks and other plant-based milks display the 'no added sugar(s)' claim (see section 5.3.2.3).

Hydrolysis is also used in the production of some dairy-based foods, where the enzyme lactase is used to hydrolyse lactose into glucose and galactose to reduce lactose content. The total amount of sugars is the same after hydrolysis however the sweetness of the product increases.

Sugars formed from hydrolysis during food manufacture was not considered in the review of 'no added sugar(s)' claim conditions under Proposal P293.

5.3.2.1 Australian and New Zealand dietary guidelines

There is no reference to sugars produced from hydrolysis during food manufacture in the dietary guidelines.

Both dietary guidelines recommend to enjoy a variety of nutritious foods every day, including milk and milk products. Both guidelines mention plant-based alternatives within the dairy food group and recommend that if milk substitutes are used, to choose products with added nutrients such as calcium, vitamin B12 and riboflavin.

5.3.2.2 Stakeholder views

FSANZ did not specifically seek views on whether 'no added sugar(s)' claim conditions should capture sugars from hydrolysis at the September 2022 targeted consultations for P1058, which focussed on defining added sugars for the purpose of the NIP. In that context, public health and consumer stakeholders considered any food manufacturing process creating or increasing sugars content should be captured as 'added sugars'. Based on that approach, they were of the view that sugars from hydrolysed lactose need not be excluded from 'added sugars' as lactose hydrolysis would not increase the sugars content of a food.

Industry stakeholders had mixed views. Some considered that as sugars generated by hydrolysis have been added during manufacture and have the same health effects as those added otherwise, they should be 'added sugars'. Others noted that as hydrolysis has to be used to achieve a desired viscosity for oat milk, sugars produced in this way should not be 'added sugars' given it would disadvantage manufacturers who are not adding additional sugar as they could not make 'unsweetened' or 'no added sugar(s)' claims. There was another view that incidental sugars (e.g. up to 1% threshold) formed during hydrolysis for other purposes (e.g. viscosity) should be exempt but sugars formed deliberately by hydrolysis should be 'added sugars'. Stakeholders suggested a 2.5% threshold for 'added sugars' which aligns with the conditions for 'low sugar' claims for liquid foods or parity with sugars in dairy milk. However, others thought parity with dairy milk was not an appropriate threshold as composition, source and processing of dairy milk is very different to plant-based products.

Jurisdictions generally supported sugars produced from hydrolysis during food manufacture being 'added sugars' if hydrolysis increases the sugar content of a food. Similar to public health/consumer stakeholders, it was noted that if hydrolysis of a carbohydrate (e.g. lactose) does not increase the sugar content, then it should not be included. There was concern that hydrolysis could be used to create a sweetened product and display a 'no added sugar(s)' claim. In contrast, there was a view that there are more important considerations when choosing a plant-based milk such as calcium and protein content as usually the sugar content of plant-based milk is similar to dairy milk. It was also noted sugar is added to some plant-based milks and so there would not be a level playing field if plant-based milks of a similar sugar concentration made using hydrolysis were able to display a 'no added sugar(s)' claim.

5.3.2.3 Sugars concentration of plant-based milk

Figure 1 (see below) shows the sugars concentration of oat, almond and soy milk products (with and without sugars listed in the statement of ingredients) available for sale in Australia and/or New Zealand as shown on supermarket online shopping websites in August 2023 (Coles, Woolworths, New World, Countdown). Plain, flavoured and 'barista' milks were included while plant milk blends were excluded. Of the 33 oat milks, 21 (64%) displayed 'no added sugar(s)' or 'unsweetened' claims and three products displayed 'low sugar' claims. As indicated in Figure 1, very few oat milk products have sugars listed in the statement of ingredients. The sugars concentration of oat milk products without sugars listed in the statement of ingredients ranged from 0.9% to 4.5 % with the majority ranging from 2% to 4.5%.

In contrast to oat milks, about half of the almond milk products have sugars listed in the statement of ingredients. Nearly all those products without sugars listed in the statement of ingredients displayed 'no added sugar(s)' or 'unsweetened' claims. While the range of sugars concentration in almond milk products is similar to that of oat milk products, those products without sugars in the statement of ingredients typically have sugars concentrations less than 1% except for those containing brown rice, as indicated in Figure 1.

Soy milk products also have a similar overall range of sugars concentration (0.7% to 7.1%) to oat and almond milks. However, in contrast to the other products, most soy milk products have sugars listed in the statement of ingredients and therefore few display 'no added sugar(s)' or 'unsweetened' claims. Most of the unflavoured soy milks with sugars in the statement of ingredients have sugars concentrations ranging from 1.2% to 3.2%.

5.3.2.4 Discussion

Hydrolysis of carbohydrates during food production may increase the sugar content of food, as does the addition of sugar as an ingredient. FSANZ therefore proposes 'no added sugar(s)' claims are not permitted when hydrolysis results in an increase in sugars concentration in a food. However, given the process of hydrolysis is needed to produce cereal-based plant milks of an appropriate viscosity and this results in an unavoidable increase in sugar concentration, a threshold sugar concentration of 1.5% is proposed below which 'no added sugar(s)' claims could be made. A threshold of 1.5% sugars concentration allows for variation in production processes.

The proposed approach is supported by consumer evidence suggesting a 'no added sugar(s)' claim may be interpreted to mean the food has reduced sugar, relative to a food without a claim. In addition, the evidence suggests 'no added sugar(s)' claims can increase consumer perceptions about the healthiness of a food relative to foods without a claim, and may mislead as to overall healthiness of a food. Variants of non-cereal based plant milks such as almond and soy milk have sugars added and often have a similar sugars concentration to oat milks with 'no added sugar(s)' claims (Figure 1). Not permitting the claim on cereal-based plant milks with sugars concentration > 1.5% would remove the potential influence of claims on consumer understanding of sugars concentration when comparing different types of plant milks that have a similar sugars concentration.

This approach is broadly consistent with Codex guidelines and requirements in the USA, Brazil, Canada and the proposed approach in South Africa (see Attachment C), noting there is no specific reference to sugars from hydrolysis in EU regulations or those in Singapore. It is not clear as to whether a 'functional effect' allows a small increase in sugars concentration (Canada) or what a 'functionally insignificant' increase in sugars concentration might be (USA).

There was broad support for not permitting 'no added sugar(s)' claims when hydrolysis is used during food manufacture among public health and consumer stakeholders and jurisdictions at the September 2022 targeted consultation for P1058. While some industry stakeholders also supported that approach, others considered the claim should be permitted.

Sugars formed from the hydrolysis of lactose in the production of some dairy foods does not result in an increase in sugars concentration. Therefore such foods, provided they meet other 'no added sugar(s)' claim conditions, would be able to display the claim.

Under the proposed approach, some foods unable to meet the requirements for 'no added sugar(s)' claims may meet the requirements for 'low sugar' claims which are already used on some cereal-based plant milks.

5.3.2.6 Proposed approach

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).

5.4 Unsweetened claims

As identified in section 2.1, to make an 'unsweetened' claim, a food must meet the conditions for a nutrition content claim about no added sugar. The proposed 'added sugars' definition discussed in section 5.2 (which includes D-tagatose as a 'hexose monosaccharide'), and the proposed claim conditions for fruit products and sugars from hydrolysis (section 5.3), will therefore also apply to 'unsweetened' claim conditions.

As discussed in section 5.2.2, FSANZ is proposing a new condition so that foods containing low energy sugars (monosaccharides and disaccharides) listed in subsection S11—2(3) of schedule 11, as an ingredient (including an ingredient of a compound ingredient), will not be permitted to display 'unsweetened' claims.

5.4.1 Proposed approach

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.

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 di-saccharides) 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.

5.5 Risk management summary

Based on its assessment and for reasons set out in this report, FSANZ is proposing to amend the existing conditions for making 'no added sugar(s)' and 'unsweetened' claims to align with dietary guidelines and support consumer informed choice as follows:

'No added sugar(s)' claim conditions

- A food for sale must not contain 'added sugars' as an added ingredient (including as an ingredient of a compound ingredient).
- 'Added sugars' is defined for the purpose of claim conditions as the following derived from any source:
 - hexose monosaccharides and disaccharides (which includes D-tagatose);
 - 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.

- A food for sale must also not contain the following fruit products (unless the fruit product is lemon or lime fruit) added as an ingredient (including as an ingredient of a compound ingredient):
 - fruit juice (other than concentrated fruit juice) unless the food for sale is canned fruit or frozen fruit;
 - fruit juice powder;
 - dried fruit, other than whole, cut or chopped dried fruit;
 - fruit powder;
 - fruit pulp;
 - fruit purée; and
 - concentrated fruit purée.
- For the purpose of claim conditions, *fruit* does not include legumes, fungi, herbs, nuts, spices or seeds.
- A food for sale that is an 'added sugars' or a fruit product (e.g. fruit purée), including blends of a particular product (e.g. blend of fruit purées), is permitted to make the claim, providing the food does not contain other 'added sugars' or fruit products, as added ingredients.
- However, a food for sale is not permitted to make the claim when it is a blend or combination of any two or more of the listed 'added sugars' or fruit products (e.g. blend of fruit juice and fruit purée).
- A food for sale must not have had the concentration of hexose monosaccharides and disaccharides increased by hydrolysis of carbohydrates during the manufacture of that food unless:
 - the food for sale is a cereal-based plant milk manufactured using hydrolysis of carbohydrates and the concentration of hexose mono- and di-saccharides is not > 1.5%.

'Unsweetened' claim conditions

- Maintain existing conditions that a food must:
 - meet the conditions for a 'no added sugar(s)' claim. The proposed amended conditions for 'no added sugar(s)' claims above will therefore apply to 'unsweetened'.
 - contain no intense sweeteners, sorbitol, mannitol, glycerol, xylitol, isomalt, maltitol, syrup or lactitol.
- A food for sale must also not contain low energy sugars (mono- and di-saccharides) listed in subsection S11—2(3) of schedule 11, added as an ingredient (including an ingredient of a compound ingredient).

5.6 Risk communication

5.6.1 Consultation

Consultation is a key part of FSANZ's open and transparent standards development process. Targeted consultation with key stakeholders has informed assessment of this proposal (see section 4).

FSANZ now invites and welcomes public and stakeholder feedback on the proposed draft variation. Public submissions are called to obtain the views of interested parties on that draft measure, the assessment on which it is based and the impacts of regulatory options. Submissions can be made via the FSANZ Consultation Hub (<https://consultations.foodstandards.gov.au>).

Subscribers and interested parties have been notified about this call for submissions via the FSANZ Notification Circular, media release, FSANZ's social media channels and Food Standards News.

FSANZ acknowledges the time taken by individuals and organisations to make submissions on this proposal. All comments are valued and contribute to the rigour of our assessment. Comments received will be taken into account when developing any draft variation for approval by the FSANZ Board. A summary of views will be provided to the Board to assist its decision making process.

If a draft variation to the Code is approved by the FSANZ Board, that decision will be notified to the FMM. If ministers do not request a review, the variation to the Code would be gazetted soon after. Gazetted of the variation to the Code would be publicly notified in the national press and on the FSANZ website.

5.6.2 World Trade Organization (WTO)

Australia and New Zealand are members of the World Trade Organization (WTO) and therefore are legally obliged to follow the rules of WTO trade related agreements. The Technical Barriers to Trade (TBT) Agreement recognises countries' rights to adopt standards for the protection of human health at the level it considers appropriate provided that such measures are in accordance with that Agreement (WTO, 1995).

As members of the World Trade Organization (WTO), Australia and New Zealand are obliged to notify WTO members where proposed regulatory measures, including those applying to voluntary labelling such as claims, are inconsistent with any existing or imminent international standards and the proposed measure may have a significant effect on trade.

There are international and overseas standards for making voluntary 'no added sugar' and 'unsweetened' claims (see section 2.6 and Attachment C) about food. Amending the Code to define and clarify added sugars for the purposes of making added sugars claims may have an effect on trade because the amended conditions for making these claims may be different to requirements in other countries. Therefore, a notification to the WTO under Australia's and New Zealand's obligations under the WTO TBT has been made to enable other WTO members to comment on the proposed amendments.

5.7 FSANZ Act assessment requirements

When assessing this proposal and the subsequent development of a food regulatory measure, FSANZ has had regard to the following matters in section 59 of the FSANZ Act.

5.7.1 Section 59

5.7.1.1 Consideration of costs and benefits

The FSANZ Act requires FSANZ to have regard to whether costs that would arise from the proposed measure outweigh the direct or indirect benefits of the proposed measure²⁵. The purpose of this consideration is to determine if the community, government, and industry as a whole is likely to benefit from a move from the status quo to the proposed option.

Impact analysis requirements applying to FSANZ were changed in April 2023²⁶. As a result, undertaking a Regulation Impact Statement (RIS) in addition to the assessment required under the FSANZ Act is no longer mandated. FSANZ has undertaken its assessment in accordance with the FSANZ Act to consider the regulatory impacts and costs and benefits in line with RIS guidance.

FSANZ's assessment of the costs and benefits can be found at Attachment E. Below is the options considered and the conclusion reached.

Options considered

Option 1 - maintain the status quo

In any consideration of changes to regulation, the status quo must be a part of FSANZ's assessment.

This option would maintain the existing conditions for making voluntary 'no added sugar(s)' or 'unsweetened' nutrition content claims in the table in S4—3 of schedule 4 of the Code.

Option 2 – amend the Code to define and clarify added sugars for the purposes of making 'no added sugar(s)' (and 'unsweetened') claims

This option would amend the existing conditions in the table in S4—3 of schedule 4 of the Code to define added sugars and clarify the foods that are permitted to make voluntary 'no added sugar(s)' or 'unsweetened' (or synonyms of these descriptors) nutrition content claims.

Conclusion – benefits outweigh costs

Based on the assessment of cost and benefits, FSANZ has concluded the proposed changes to the Code (option 2) will likely have the largest net benefit and result in a net benefit as part of a stand-alone and/or cumulative intervention and is therefore the preferred option.

Option 2 will benefit consumers by reducing the likelihood that they are potentially misled and enabling more informed choice in support of dietary guideline recommendations. This may lead to improvements in the health of the Australian and New Zealand populations by reducing the severity and/or occurrence of diet related illness. It will also support other interventions such as education.

²⁵ Paragraph 59(2)(a) of the FSANZ Act

²⁶ For more information, refer to the Regulatory Impact Analysis Guide for Ministers' Meetings and National Standard Setting Bodies (June 2023)

The cost of this proposal is primarily the cost for the food industry to update food labels where 'no added sugar(s)' and 'unsweetened' claims may no longer be made. An upper bound estimate of the cost of this change is a one off cost of \$AUD7.63m.

This intervention only represents a small intervention in terms of the wider policy intent of dietary guidelines. However, it is well understood that health costs to the economy are significant and even small improvements in outcomes can be cost effective. The total cost of the proposal is modest when compared to the economy-wide health cost of overweight and obesity and dental caries.

5.7.1.2 Other measures

There are no other measures (whether available to FSANZ or not) that would be more cost-effective than a food regulatory measure developed or varied as a result of the proposal.

5.7.1.3 Any relevant New Zealand standards

The relevant standards apply in both Australia and New Zealand. There are no relevant New Zealand only standards.

5.7.1.4 Any other relevant matters

Other relevant matters are considered below.

5.7.2 Subsection 18(1)

FSANZ has also considered the three objectives in subsection 18(1) of the FSANZ Act during the assessment.

5.7.2.1 Protection of public health and safety

Based on available evidence, FSANZ's assessment indicates 'no added sugar(s)' claims can influence consumer food purchasing decisions. Defining and clarifying 'added sugars' for the purposes of nutrition content claims about added sugar to align with dietary guideline recommendations contributes to broader public health efforts to reduce the risk of diet-related illness in the population.

5.7.2.2 The provision of adequate information relating to food to enable consumers to make informed choices

Defining and clarifying added sugars for the purposes of nutrition content claims about added sugar provides information, when these claims are voluntarily made, to assist consumers make informed choices in relation to added sugars in their diet.

5.7.2.3 The prevention of misleading or deceptive conduct

Based on available evidence that suggests the presence of 'no added sugar' claims can influence consumers' perceptions of healthfulness of a food, defining and clarifying added sugars for claim purposes to align with dietary guidelines will help reduce the potential for consumers to be misled when voluntary nutrition content claims about added sugars are made about food.

5.7.3 Subsection 18(2) considerations

FSANZ has also had regard to:

- **the need for standards to be based on risk analysis using the best available scientific evidence**

FSANZ's assessment used best available scientific evidence (see section 3 and SD1).

- **the promotion of consistency between domestic and international food standards**

FSANZ has considered international and overseas regulations for 'no added sugar(s)' and similar claims and definitions for 'added sugars' for the purpose of making claims and various other purposes (see section 2.6 and Attachments C and D).

- **the desirability of an efficient and internationally competitive food industry**

Defining and clarifying added sugars for claim purposes provides certainty for industry to be efficient and competitive in making permitted nutrition content claims about added sugars in food.

- **the promotion of fair trading in food**

FSANZ has not identified any issues relevant to this matter.

- **any written policy guidelines formulated by the Forum on Food Regulation**

The relevant ministerial policy guidelines, the *Policy Guideline on Nutrition, Health and Related Claims*, and the *Policy Guideline on Food Labelling to Support Consumers to Make Informed Healthy Choices* have been considered as part of the assessment (see sections 2.3 and 5.3).

6 Draft variation

The draft variation to the Code is at Attachment A and is intended to take effect on gazettal.

A draft explanatory statement is at Attachment B. An explanatory statement is required to accompany an instrument if it is lodged on the Federal Register of Legislation.

7 Implementation

7.1 Transitional arrangements

The draft variation is proposed to commence on gazettal.

As the proposed variation would amend the conditions for making 'no added sugar(s)' claims and also 'unsweetened' nutrition content claims, any existing claims being made about a food may need to be removed if they no longer meet the claim conditions.

Therefore, 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.

A transition period of two years would begin on the date of gazettal of the variation. During the two years, 'no added sugar(s)' and 'unsweetened' claims made can comply with either the Code as in force as if the variation had not taken effect, or with the Code as amended by the variation. At the end of the transition period, all food products making these claims would need to comply with the variation.

7.2 Education

As recognised in the *Policy Guideline on Food Labelling to Support Consumers to Make Informed Healthy Choices*²⁷ there is a role for education and promotion of the dietary guidelines to raise consumers' awareness and understanding about healthy dietary patterns.

FSANZ acknowledges food labelling has an important role to enable consumers to make informed choices when purchasing food products and can support consumers' dietary choices specific to their individual needs. FSANZ expects to focus on informing consumers, public health professionals and the food industry, particularly small business, of the revised conditions for voluntary 'no added sugar(s)' and 'unsweetened' claims primarily through targeted stakeholder engagement and via the FSANZ website and social media channels.

However, food labelling must be supported by broader public efforts by governments and public health bodies to promote the dietary guidelines and educate consumers on how to eat a healthy diet.

8 References

FSANZ (2008) Nutrition, Health and Related Claims: A short guide to the new Standard. Food Standards Australia New Zealand, Canberra.

MoH (2003) Food and Nutrition guidelines for Healthy Adults: A background paper. Ministry of Health, Wellington.

MoH (2013) Food and Nutrition guidelines for Healthy Older People: A background paper. Ministry of Health, Wellington

MoH (2015) Food and Nutrition Guidelines for Healthy Children and Young People (Aged 2–18 years): A background paper. Ministry of Health, Wellington.

MoH (2020) Eating and Activity Guidelines for New Zealand Adults. Ministry of Health, Wellington.

MoH (2021) Healthy Eating Guidelines for New Zealand Babies and Toddlers (0–2 years old). Ministry of Health, Wellington.

NHMRC (2003) Dietary Guidelines for Australian Adults. Commonwealth of Australia, Canberra.

NHMRC (2013) Australian Dietary Guidelines. Commonwealth of Australia, Canberra.

Attachments

- A. Draft variation to the Australia New Zealand Food Standards Code
- B. Draft Explanatory Statement
- C. International 'no added sugar' and 'unsweetened' claim conditions
- D. International 'added' and 'free' sugar definitions
- E. Consideration of costs and benefits
- F. FSANZ Consultation Hub questions

²⁷ [Policy Guideline on Food Labelling to Support Consumers to make Informed Healthy Choices](#)

Attachment A – Draft variation to the Australia New Zealand Food Standards Code



Food Standards (Proposal P1062 – Defining added sugars for claims) Variation

The Board of Food Standards Australia New Zealand gives notice of the making of this variation under section 92 of the *Food Standards Australia New Zealand Act 1991*. The variation commences on the date specified in clause 3 of this variation.

Dated [To be completed by Delegate]

[Insert Delegate's details]

Delegate of the Board of Food Standards Australia New Zealand

Note:

This variation will be published in the Commonwealth of Australia Gazette No. FSC XX on XX Month 20XX. This means that this date is the gazettal date for the purposes of clause 3 of the variation.

1 Name

This instrument is the *Food Standards (Proposal P1062 – Defining added sugars for claims) Variation*.

2 Variation to a standard in the *Australia New Zealand Food Standards Code*

The Schedule varies a Standard in the *Australia New Zealand Food Standards Code*.

3 Commencement

The variation commences on the date of gazettal.

4 Effect of the variations made by this instrument

- (1) Section 1.1.1—9 of Standard 1.1.1 does not apply to the variations made by this instrument.
- (2) During the transition period, a food product may be sold if the product complies with one of the following:
 - (a) the Code as in force without the variations made by this instrument; or
 - (b) the Code as amended by the variations made by this instrument.
- (3) For the purposes of this clause, the **transition period** means the period commencing on the variation's date of commencement and ending 24 months after the date of commencement.

Schedule

Schedule 4 Nutrition, health and related claims

[1] Table to section S4—3 (table entry dealing with “Sugar or sugars”)

Repeal the entry, substitute:

Sugar or sugars	% Free	The food meets the conditions for a nutrition content claim about low sugar.
	Low	The food contains no more sugars than: <ol style="list-style-type: none">(a) 2.5 g/100 mL for liquid food; or(b) 5 g/100 g for solid food.
	Reduced or Light/Lite	The food contains at least 25% less sugars than in the same amount of *reference food.
	No added	<ol style="list-style-type: none">(a) The food for sale does not contain any of the following as an added ingredient:<ol style="list-style-type: none">(i) added sugars;(ii) dried fruit other than whole, cut or chopped dried fruit;(iii) fruit juice (other than concentrated fruit juice), unless the food for sale is canned fruit or frozen fruit;(iv) fruit juice powder;(v) fruit powder;(vi) fruit pulp;(vii) fruit purée;(viii) concentrated fruit purée;(ix) a blend or combination of any two or more ingredients listed above.

Example:

A food for sale that contains a blend of fruit puree and fruit juice as an ingredient added during production cannot be the subject of a claim about no added sugar.

- (b) The food for sale is not a blend or combination of any two or more ingredients listed in sub-paragraphs (i) to (viii) of condition (a).

Example:

A food for sale that is a blend of concentrated fruit juice and minced dried fruit cannot be the subject of a claim about no added sugar.

- (c) For the purposes of condition (a) and (e), **added sugars** means any of the following derived from any source:
- (i) hexose monosaccharides and disaccharides;
 - (ii) starch hydrolysate;
 - (iii) glucose syrup, maltodextrin and similar products;
 - (iv) a product derived at a sugar refinery (including brown sugar, molasses, raw sugar, golden syrup, treacle);
 - (v) icing sugar;
 - (vi) invert sugar;
 - (vii) sugar and sugar syrup derived from plants
 - (viii) honey;
 - (ix) malt;
 - (x) malt extracts;
 - (xi) concentrated fruit juice, unless the food for sale is fruit juice;
 - (xii) deionised fruit juice.
- (d) For the purposes of conditions (a), (b) and (e), an **ingredient** includes an ingredient of a *compound ingredient.
- (e) Condition (a) does not apply to a food for sale that:
- (i) is one of the following products:
 - (A) added sugars;
 - (B) dried fruit;
 - (C) fruit juice;
 - (D) fruit juice powder;
 - (E) fruit powder;
 - (F) fruit pulp;
 - (G) fruit purée;
 - (H) concentrated fruit purée; and

- (ii) does not contain as an added ingredient any other product listed in sub-paragraph (i).
- (f) Condition (a) does not apply to lemon or lime fruit (including when dried or in the form of a juice, juice powder, powder, pulp, purée, or concentrated purée).
- (g) The food for sale has not had the concentration of hexose monosaccharides and disaccharides in that food increased by hydrolysis of carbohydrates during the production of that food.
- (h) Condition (g) does not apply if:
 - (i) the food for sale is a cereal—based plant milk manufactured using hydrolysis of carbohydrates; and
 - (ii) the concentration of hexose monosaccharides and disaccharides in that food is not > 1.5%.
- (i) Any of the following is not **fruit** for the purposes of conditions (a) (c) and (e): legumes; fungi; herbs; nuts, spices; seeds.

Unsweetened

- (a) The food meets the conditions for a nutrition content claim about no added sugar.
- (b) The food contains no intense sweeteners, sorbitol, mannitol, glycerol, xylitol, isomalt, maltitol syrup or lactitol.
- (c) The food does not contain, as an ingredient or as an ingredient of a *compound ingredient, a monosaccharide or disaccharide listed in the table to subsection S11—2(3).

Attachment B – Draft Explanatory Statement

DRAFT EXPLANATORY STATEMENT

Food Standards Australia New Zealand Act 1991

1. Authority

Section 13 of the *Food Standards Australia New Zealand Act 1991* (the FSANZ Act) provides that the functions of Food Standards Australia New Zealand (the Authority) include the development of standards and variations of standards for inclusion in the *Australia New Zealand Food Standards Code* (the Code).

Division 2 of Part 3 of the FSANZ Act specifies that the Authority may prepare a proposal for the development or variation of food regulatory measures, including standards. This Division also stipulates the procedure for considering a proposal for the development or variation of food regulatory measures.

The Authority prepared Proposal P1062 to consider amending the Code to define and clarify added sugars for the purposes of making claims. The Authority considered the Proposal in accordance with Division 2 of Part 3 and has prepared a draft variation - the *Food Standards (Proposal P1062 – Defining added sugars for claims) Variation*.

2. Variation will be a legislative instrument

If approved, the draft variation would be a legislative instrument for the purposes of the *Legislation Act 2003* (see section 94 of the FSANZ Act) and be publicly available on the Federal Register of Legislation (www.legislation.gov.au).

If approved, this instrument would not be subject to the disallowance or sunset provisions of the *Legislation Act 2003*. Subsections 44(1) and 54(1) of that Act provide that a legislative instrument is not disallowable or subject to sunset if the enabling legislation for the instrument (in this case, the FSANZ Act): (a) facilitates the establishment or operation of an intergovernmental scheme involving the Commonwealth and one or more States; and (b) authorises the instrument to be made for the purposes of the scheme. Regulation 11 of the *Legislation (Exemptions and other Matters) Regulation 2015* also exempts from sunset legislative instruments a primary purpose of which is to give effect to an international obligation of Australia.

The FSANZ Act gives effect to an intergovernmental agreement (the Food Regulation Agreement) and facilitates the establishment or operation of an intergovernmental scheme (national uniform food regulation). That Act also gives effect to Australia's obligations under an international agreement between Australia and New Zealand. For these purposes, the Act establishes the Authority to develop food standards for consideration and endorsement by the Food Ministers Meeting (FMM). The FMM is established under the Food Regulation Agreement and the international agreement between Australia and New Zealand, and consists of New Zealand, Commonwealth and State/Territory members. If endorsed by the FMM, the food standards on gazettal and registration are incorporated into and become part of Commonwealth, State and Territory and New Zealand food laws. These standards or instruments are then administered, applied and enforced by these jurisdictions' regulators as part of those food laws.

3. Purpose

The purpose of the *Food Standards (Proposal P1062 – Defining added sugars for claims) Variation* is to amend Schedule 4 of the Code to define and clarify what constitutes added sugars for the purposes of making voluntary nutrition content claims about added sugars.

4. Documents incorporated by reference

The draft variation does not incorporate any documents by reference.

5. Consultation

In accordance with the procedure in Division 2 of Part 3 of the FSANZ Act, the Authority's consideration of Proposal P1062 will include one round of public consultation following an assessment and the preparation of a draft variation and associated assessment summary. A call for submissions (including the draft variation) will be open for a 3-week period.

Impact analysis requirements applying to FSANZ were changed in April 2023²⁸. As a result, undertaking a Regulation Impact Statement (RIS) in addition to the assessment required under the FSANZ Act is no longer mandated. FSANZ has undertaken assessment in accordance with the FSANZ Act to consider the regulatory impacts and costs and benefits in line with RIS guidance.

6. Statement of compatibility with human rights

If approved, this instrument would be exempt from the requirements for a statement of compatibility with human rights as it is a non-disallowable instrument under section 44 of the Legislation Act 2003.

7. Variation

Clause 1 provides that the name of the variation is the *Food Standards (Proposal P1062 – Defining added sugars for claims) Variation*.

Clause 2 provides that the Code is amended by the Schedule to the variation.

Clause 3 provides that the variation will commence on the date of gazettal of the instrument.

Clause 4 provides a transitional arrangement.

The stock-in-trade exemption provided by section 1.1.1—9 of Standard 1.1.1 will not apply to any of the amendments made by the draft variation. See subclause 4(1).

Instead, subclauses 4(2) and (3) provide a transitional arrangement where during a two year transition period commencing on the date of gazettal, a food product may be sold if the product complies with either: the Code as in force without the amendments made by the variation; or the Code as amended by the variation.

8. Schedule

The Schedule of the draft variation amends Schedule 4 of the Code.

²⁸ For more information, refer to the Regulatory Impact Analysis Guide for Ministers' Meetings and National Standard Setting Bodies (June 2023).

Item [1] of the Schedule amends the table to section S4—3 of Schedule 4 of the Code. It replaces the entry in that table dealing with the property of food “Sugar or sugars” with a new entry as follows.

The new entry restates the current entries in column 3 of the table for the specific descriptors ‘% Free’, ‘Low’ and “Reduced or Light/Lite”, and the current conditions listed in column 4 for the use of each of those descriptors.

No added sugar or sugars

The new entry sets new conditions in column 4 of the table for the use of the specific descriptor ‘No added’. The new conditions are as follows.

Condition (a)

Condition (a) is that the food for sale does not contain any of the following as an added ingredient:

- (i) added sugars (as defined in condition (b));
- (ii) dried fruit other than whole, cut or chopped dried fruit;
- (iii) fruit juice (other than concentrated fruit juice), unless the food for sale is canned fruit or frozen fruit;
- (iv) fruit juice powder;
- (v) fruit powder;
- (vi) fruit pulp;
- (vii) fruit purée;
- (viii) concentrated fruit purée;
- (ix) a blend or combination of any two or more of the ingredients listed in (i) to (viii) above.

The effect of condition (a)(ii) will be that dried fruit that is not whole, cut or chopped (e.g. dried fruit paste, minced dried fruit) must not be present as an ingredient in a food displaying a ‘no added sugar(s)’ claim.

Condition (a)(iii) will permit canned fruit or frozen fruit with fruit juice (but not concentrated fruit juice) added as an ingredient to display a ‘no added sugar(s)’ claim.

Condition (a)(ix) clarifies that a food for sale containing a blend of any two or more ingredients listed in conditions (a)(i) to (a)(viii) added as an ingredient, must not display a ‘no added sugar(s)’ claim. For example, a ‘no added sugar(s)’ claim will not be permitted to be displayed on a food for sale that contains a blend of fruit purée and fruit juice that is added as an ingredient during production.

Condition (b)

Condition (b) provides that a ‘no added sugar(s)’ claim is not permitted to be displayed on a food for sale that is a blend or combination of any two or more ingredients listed in conditions (a)(i) to (a)(viii). For example, a ‘no added sugar(s)’ claim is not permitted to be displayed on a food for sale that is a blend of concentrated fruit juice and minced dried fruit.

Condition (c)

Condition (c) states that, for the purposes of conditions (a) and (e), the term *added sugars* means any of the products listed below, derived from any source:

- (i) hexose monosaccharides and disaccharides (for example, dextrose, fructose, sucrose, lactose, glucose, galactose, maltose, trehalose, D-tagatose);
- (ii) starch hydrolysate;
- (iii) glucose syrup, maltodextrin and similar products;
- (iv) a product derived at a sugar refinery (for example, brown sugar, molasses, raw sugar, golden syrup, treacle);
- (v) icing sugar;
- (vi) invert sugar;
- (vii) sugar and sugar syrup derived from plants (for example coconut sugar or syrup, palm sugar or syrup, agave syrup, rice syrup);
- (viii) honey;
- (ix) malt;
- (x) malt extracts;
- (xi) concentrated fruit juice, unless the food for sale is fruit juice;
- (xii) deionised fruit juice.

Condition (c)(xi) provides that, if a fruit juice is made with concentrated fruit juice, then concentrated fruit juice is not 'added sugars' for the purposes of condition (a)(i).

Condition (d)

Condition (d) provides that the reference in conditions (a), (b) and (e) to an ingredient includes an ingredient of a compound ingredient. This will mean, for example, that a food for sale containing an ingredient listed in condition (a)(i) to (ix) as an ingredient of an added compound ingredient in that food is not permitted to display a 'no added sugar(s)' claim. For example, a food for sale that contains jam (which contains sugar) as an added compound ingredient will not be permitted to display a 'no added sugar(s)' claim.

Condition (e)

Condition (e) provides an exemption to condition (a). It provides that condition (a) does not apply to a food for sale that is a product listed in condition (e)(i) and that does not contain as an ingredient another product listed in condition (e)(i). This in effect will mean that that food for sale may display a 'no added sugar(s)' claim.

This exemption will also apply to foods for sale that are a mixture of different fruit types. For example, the following foods for sale will be permitted to display a 'no added sugar(s)' claim provided that that food for sale does not contain any of the other products listed in condition (e)(i) as an added ingredient:

- a bottle of apple juice;
- a bottle of apple and orange juice (noting food sold as fruit juice is regulated in Standard 2.6.1 of the Code);
- a jar of honey;
- a can of apple purée;
- a bag of dried apples; or
- a bag of dried apples and dried raspberries.

Condition (f)

Condition (f) also provides an exemption to condition (a). It provides that condition (a) does not apply to lemon fruit or lime fruit, including when dried or in the form of a, juice (including concentrated or deionised), juice powder, powder, pulp, purée or concentrated purée. The exemption will mean that a food for sale that contains, as an added ingredient, lemon fruit and/or lime fruit - whether dried or in the form of a, juice (including concentrated or deionised), juice powder, powder, pulp, purée or concentrated purée - is permitted to display a 'no added sugar(s)' claim.

Condition (g)

Condition (g) provides that a 'no added sugar(s)' claim is not permitted to be displayed on a food for sale in which the concentration of hexose monosaccharides and disaccharides has been increased by hydrolysis of carbohydrates during food production.

Condition (h)

Condition (h) provides an exemption to condition (g). It provides that condition (g) does not apply to a food for sale that is a cereal-based plant milk manufactured using hydrolysis of carbohydrates and the concentration of hexose monosaccharides and disaccharides in that food is not > 1.5%. The exemption means that condition (g) does not prevent a 'no added sugar(s)' claim from being displayed on that food for sale.

Condition (i)

Condition (i) provides that, for the purposes of conditions (a), (c) and (e), each of the following is not fruit: legumes; fungi; herbs; nuts; spices; or seeds.

Unsweetened'

The new entry restates the entry in column 3 of the table for the specific descriptor 'Unsweetened', and the current conditions (a) and (b) listed in column 4 for the use of that descriptor.

The new entry imposes a new condition for the use of the specific descriptor 'Unsweetened' in relation to the property of food 'Sugar or sugars'.

New condition (c) provides that an 'unsweetened' claim cannot be made in relation to a food for sale that contains, as an ingredient or as an ingredient of a compound ingredient, a monosaccharide or disaccharide listed in the table to subsection S11—2(3) of the Code. This will mean such a food for sale will not be able to make an 'unsweetened' claim if that food could display a 'no added sugar(s)' claim.

Attachment C – International ‘no added sugar’ and ‘unsweetened’ claim conditions

Regulation/Country	Claim conditions	Additional information
<p>Codex</p> <p>Guidelines for use of Nutrition and Health Claims</p> <p>CAC/GL 23-1997</p>	<p>7.1 Non-Addition of Sugars</p> <p>Claims regarding the non-addition of sugars to a food may be made provided the following conditions are met.</p> <p>(a) No sugars of any type have been added to the food (Examples: sucrose, glucose, honey, molasses, corn syrup, etc.);</p> <p>(b) The food contains no ingredients that contain sugars as an ingredient (Examples: jams, jellies, sweetened chocolate, sweetened fruit pieces, etc.);</p> <p>(c) The food contains no ingredients containing sugars that substitute for added sugars (Examples: non-reconstituted concentrated fruit juice, dried fruit paste, etc.); and</p> <p>(d) The sugars content of the food itself has not been increased above the amount contributed by the ingredients by some other means (Example: the use of enzymes to hydrolyse starches to release sugars).</p>	<p>2.1.3 Non-addition claim means any claim that an ingredient has not been added to a food, either directly or indirectly. The ingredient is one whose presence or addition is permitted in the food and which consumers would normally expect to find in the food.</p>
<p>Regulation (EC) No 1924/2006 of the European Parliament and of the Council of 20</p>	<p>WITH NO ADDED SUGAR</p> <p>A claim stating that sugars have not been added to a food, and any claim likely to have the same meaning for the consumer, may</p>	<p>UK Guidance to EC Regulation</p> <p>Nutrition and health claims: guidance to compliance with Regulation (EC) 1924/2006</p> <p>Updated 10 November 2021</p>

Regulation/Country	Claim conditions	Additional information
December 2006 on nutrition and health claims made on foods	only be made where the product does not contain any added mono- or disaccharides or any other food used for its sweetening properties. If sugars are naturally present in the food, the following indication should also appear on the label: 'CONTAINS NATURALLY OCCURRING SUGARS'.	<p>Q70. The conditions for "no added sugar" claims includes "...or any other food used for its sweetening properties". What does this mean?</p> <p>This will have to be looked at on a case-by-case basis and will depend on the nature of the product, why ingredients are used and how it is labelled. The name of the product is likely to indicate why the other food is present – as a defining ingredient or as a sweetener. For example, in a cranberry juice drink, the use of concentrated grape juice is usually to sweeten the product and is not included in the name; whereas in a mango and apple juice drink, the presence of apple juice is indicated in the name and is not added to sweeten the product (the sweetening effect is likely to be negligible with sweet mango juice).</p> <p>Q71. How much sugar has to be present to trigger the requirement to state "CONTAINS NATURALLY OCCURRING SUGARS" on a product making a "no added sugar" claim?</p> <p>The Regulation does not specifically mention how much sugar should be present to trigger the use of this statement. The Regulation does however, define any product with no more than 0.5g of sugar per 100ml or per 100g as "sugar free". Taking this into consideration it is our view that only products that contain more than 0.5g of naturally present sugar per 100ml or per 100g should make the statement "CONTAINS NATURALLY OCCURRING SUGARS".</p>
USA Title 21--Food and Drugs Chapter I--Food and Drug Administration Department of	<p>The terms "no added sugar," "without added sugar," or "no sugar added" may be used only if:</p> <p>(i) No amount of sugars, as defined in § 101.9(c)(6)(ii), or any other ingredient that contains sugars that functionally substitute for</p>	<p>Sugars are defined in § 101.9(c)(6)(ii) as follows:</p> <p>Total sugars shall be defined as the sum of all free mono- and disaccharides (such as glucose, fructose, lactose, and sucrose).</p>

Regulation/Country	Claim conditions	Additional information
<p>Health and Human Services</p> <p>Subchapter B - Food for Human Consumption</p> <p>Part 101 -- Food Labeling</p>	<p>added sugars is added during processing or packaging; and</p> <p>(ii) The product does not contain an ingredient containing added sugars such as jam, jelly, or concentrated fruit juice; and</p> <p>(iii) The sugars content has not been increased above the amount present in the ingredients by some means such as the use of enzymes, except where the intended functional effect of the process is not to increase the sugars content of a food, and a functionally insignificant increase in sugars results; and</p> <p>(iv) The food that it resembles and for which it substitutes normally contains added sugars; and</p> <p>(v) The product bears a statement that the food is not "low calorie" or "calorie reduced" (unless the food meets the requirements for a "low" or "reduced calorie" food) and that directs consumers' attention to the nutrition panel for further information on sugar and calorie content.</p>	
<p>Canada</p> <p>Nutrition labelling: Table of permitted nutrient content statements and claims</p>	<p>"no sugar added", "no added sugar" or "without added sugar"</p> <p>1) The food contains no added sugars-based ingredients or ingredients containing sugars-based ingredients.</p>	<p>Sugars-based ingredients can be one of the following:</p> <p>Ingredient that is a monosaccharide or disaccharide or a combination of these</p> <p>Examples sucrose, lactose and maltose, glucose-fructose, cane sugar, sucrose, beet sugar, and lactose. Refer to Annex 1A: Examples of sugars-based ingredients that are monosaccharide,</p>

Regulation/Country	Claim conditions	Additional information
	<p>(2) The sugars content is not increased through some other means except if the functional effect is not to increase the sugars content of the food.</p> <p>(3) The similar reference food</p> <p style="padding-left: 40px;">(a) contains an added sugars-based ingredient or an ingredient containing a sugars-based ingredient; and</p> <p style="padding-left: 40px;">(b) does not meet the conditions set out in column 2 of item 37.1 for the subject "low in sugars" set out in column 1</p> <p><i>The conditions set out in column 2 of item 37.1 are as follows:</i></p> <p>The food contains</p> <p style="padding-left: 40px;">(a) 5 g or less of sugars per reference amount and serving of stated size and, if the reference amount is 30 g or 30 mL or less, per 50 g; or</p> <p style="padding-left: 40px;">(b) 5 g or less of sugars per 100 g if the food is a prepackaged meal.</p> <p><i>Claim is also not permitted for products that meet or exceed the thresholds for high-in sugars for a front-of-package nutrition symbol.</i></p>	<p>disaccharide or a combination of these for a list of additional examples.</p> <p>Ingredient that is a sweetening agent</p> <p>Examples of sweetening agents include fancy molasses, maple syrup, brown sugar, agave syrup, refined sugar syrup, honey, and other syrup. Refer to Annex 1B: Examples of sugars-based ingredients that are sweetening agents for a list of additional examples.</p> <p>Ingredient that is a functional substitute for a sweetening agent</p> <p>With reference to any prepackaged products, a functional substitute for a sweetening agent means a food,</p> <ul style="list-style-type: none"> • that is not a sweetener or sweetening agent including any sugars, but • replaces a sweetening agent and has 1 or more functions of the sweetening agent including, sweetening, thickening, texturing or caramelizing [B.01.001(1), FDR] <p>Sweetening agents may also have other functions including, flavouring, preservation, browning/caramelization, and colouring.</p> <p>A "functional substitute for a sweetening agent" is generally not an obvious source of sugars in the food. For example, fruit juice concentrate may not be familiar to some as a source of sugars. Grouping of sugars-based ingredients may help consumers identify these hidden sources of sugars in their foods.</p> <p>List of sugars-based ingredients that are functional substitutes for sweetening agents</p> <ul style="list-style-type: none"> • Condensed milk or sweetened condensed milk • Decharacterized juice • Fruit juice (except lime/lemon juice)

Regulation/Country	Claim conditions	Additional information
	<p><i>These conditions also apply to "unsweetened" claim as the requirements for "no added sugars" are a condition of its use.</i></p>	<ul style="list-style-type: none"> • Fruit juice concentrate (except lime/lemon juice concentrate) • Fruit paste • Fruit purée • Fruit purée concentrate • Malted milk or malted milk powder • Maltodextrin (no fibre) • Nectar <p>Apart from this list, there are other ingredients containing sugars, which may have a function in the food in addition to sweetening. It is the responsibility of the manufacturer to be able to demonstrate that such an ingredient performs a function other than sweetening the food, otherwise it should be grouped. It is also permitted to include in the sugars grouping, any other ingredient containing sugars regardless of its purpose in the food.</p>
<p>Singapore</p> <p>A HANDBOOK ON NUTRITION LABELLING</p>	<p>No added sugar or Without added sugar</p> <ul style="list-style-type: none"> • no free sugars[#] or ingredients with added free sugar[#], honey, malt and malt extract, with the exception of sugar alcohols and sweetening substances[^], are added during processing. <p>Unsweetened</p> <ul style="list-style-type: none"> • no added free sugars[#] or ingredients with added free sugar[#], honey, malt, malt extract, sweetening substances[^] or sugars alcohols, are added during processing 	<p>[#]As per the WHO definition for free sugars, this includes all monosaccharides and disaccharides added to foods by the manufacturer, plus sugars naturally present in honey, syrups and fruit juices. This definition excludes lactose and galactose if naturally present in milk. Deionised fruit juice is also considered free sugar.</p> <p>[^]<i>Sweetening substances</i> - Non-nutritive or artificial sweeteners such as saccharin, aspartame, acesulfame-K and sucralose and steviol glycosides.</p>
South Africa	(6) Claims regarding the non-addition of any mono- and disaccharides to a foodstuff such	

Regulation/Country	Claim conditions	Additional information
<p>Proposed amendments to FOODSTUFFS, COSMETICS AND DISINFECTANTS ACT, 1972 (ACT No.54 OF 1972)</p> <p>REGULATIONS RELATING TO THE LABELLING AND ADVERTISING OF FOODSTUFFS</p>	<p>as no sugar or free sugar or “no sugar added” or “no added sugar” or other words with a similar meaning, may not be made for an end product foodstuff unless—</p> <ul style="list-style-type: none"> (a) the end product is a single ingredient agricultural product; (b) the end product is a fresh, single fruit juice or a single, fresh vegetable juice as defined by these or relevant regulations under the Agricultural Product Standards Act; (c) the end product is not a fruit or vegetable juice or concentrate thereof, which is blended with another fruit juice or concentrate thereof in order to comply with a certain sweetness (brix) requirement provided for in the relevant regulations under the Agricultural Product Standards Act; (d) (d) the foodstuff contains no compound ingredients of which any sugar is an ingoing ingredient or intrinsic sugar (such as but not limited to jams, jellies, sweet confectionary and chocolate, sweetened fruit pieces); (e) no sugars or source thereof have been added to the foodstuff, irrespective of the technological purpose thereof, (such as but not limited to sucrose, glucose, fructose, 	

Regulation/Country	Claim conditions	Additional information
	<p>lactose, honey, molasses, corn and other syrups, malt, isomaltulose, whey powder, milk solids) and irrespective of whether the added sugar or source is an intrinsic or an added sugar); or</p> <p>(f) the sugar content of the foodstuff itself has not been increased above the amount contributed by the ingredients, by some other means such as the use of enzymes to hydrolyse starches to release sugars.</p>	
<p>Brazil</p> <p><u>COLLEGIATE BOARD RESOLUTION - RDC NO. 429, OF OCTOBER 8, 2020</u></p> <p><i>Note: Information translated electronically from Portuguese</i></p>	<p>No added sugars:</p> <p>The food does not contain added sugars; and</p> <p>The food does not contain ingredients containing added sugars; and</p> <p>The food does not contain ingredients that naturally contain sugars and that are added to foods as sugar substitutes to provide sweet taste; and</p> <p>No means are used during processing, such as the use of enzymes, that can increase the sugar content in the final product.</p>	<p><i>Added sugars are defined as:</i> all monosaccharides and disaccharides added during the processing of the food, including the fractions of monosaccharides and disaccharides arising from the addition of the ingredients cane sugar, beet sugar, sugars from other sources, honey, molasses, rapadura, sugarcane juice, malt extract, sucrose, glucose, fructose, lactose, dextrose, invert sugar, syrups, maltodextrins, other hydrolyzed carbohydrates and ingredients with the addition of any the above ingredients, with the exception of polyols, added sugars consumed by fermentation or non-enzymatic browning and sugars naturally present in milks and dairy products and sugars naturally present in vegetables, including fruits, whole, pieces, powdered, dehydrated, pulps, purées, whole juices, reconstituted juices and concentrated juices;</p>

Attachment D – International ‘added’, ‘free’ and ‘liberated’ sugar definitions

Source of definition	Definition	Purpose/application of definition
WHO Guideline: Sugars intake for adults and children (2015)	Free sugars include all monosaccharides and disaccharides added to foods by the manufacturer, cook, or consumer, and sugars naturally present in honey, syrups, fruit juices and fruit juice concentrates.	Makes recommendations on the intake of free sugars to reduce the risk of NCDs in adults and children. The recommendations are intended for use by policy-makers and programme managers to develop measures to decrease intake of free sugars, where necessary, through a range of public health interventions (among other uses).
WHO/FAO joint report (2003): Diet, nutrition and the prevention of chronic diseases	Free sugars refers to all monosaccharides and disaccharides added to foods by the manufacturer, cook or consumer, plus sugars naturally present in honey, syrups and fruit juices. NB: The same definition as was used in 2015 but without ‘fruit juice concentrates’.	The primary purpose was to examine and develop recommendations for diet and nutrition in the prevention of chronic diseases. The overall aim of the recommendations is to implement more effective and sustainable policies and strategies to deal with the increasing public health challenges related to diet and health.
WHO European Region: Nutrient and Promotion Profile Model, Supporting appropriate promotion of food products for infants and young children 6-36 months in the WHO European Region	Added sugar is defined as all monosaccharides and disaccharides added to foods and beverages by the manufacturer, cook or consumer during processing or preparation. Free sugars are defined as monosaccharides (such as glucose or fructose) and disaccharides (such as sucrose or table sugar) added to foods by the manufacturer, cook or consumer in addition to sugars naturally present in honey, syrups, fruit juices and fruit concentrates. Liberated sugars are defined as those that are released or “liberated” from within plant cell walls during processing such as heat-treatment, maceration or pureeing. Liberated sugars have the same function as free sugars in terms of contributing to the sweet taste of foods and the speed at which sugars are absorbed into the blood stream. For example, fruit puree is particularly high in	The nutrient and promotion profile model aims to support policy changes for food products for infants and young children to ensure both high nutritional quality and appropriate marketing.

Source of definition	Definition	Purpose/application of definition
	<i>liberated sugar. Feeding fruit puree alone, or using it as an ingredient in other foods, means foods taste very sweet and blood sugar levels can rise rapidly.</i>	
USFDA (2016)	Added sugars are either added during the processing of foods, or are packaged as such, and include sugars (free, mono and disaccharides), sugars from syrups and honey, and sugars from concentrated fruit or vegetable juices that are in excess of what would be expected from the same volume of 100 percent fruit or vegetable juice of the same type, except that fruit or vegetable juice concentrated from 100 percent juices sold to consumers, fruit or vegetable juice concentrates used towards the total juice percentage label declaration under § 101.30 or for Brix standardization under § 102.33(g)(2) of this chapter , fruit juice concentrates which are used to formulate the fruit component of jellies, jams, or preserves in accordance with the standard of identities set forth in §§ 150.140 and 150.160 of this chapter , or the fruit component of fruit spreads shall not be labeled as added sugars.	Mandatory inclusion of 'added sugars' in Nutrition Facts label. The amount of added sugars is based on the finished product composition (including in foods where sugar content changes during manufacture).
Brazil (regulations published October 2020; come into force October 2022)	Added sugars: all monosaccharides and disaccharides added during food processing, including fractions of monosaccharides and disaccharides from the addition of the ingredients cane sugar, beet sugars, sugars from other sources, honey, molasses, rapadura, cane broth, malt extract, sucrose, glucose, fructose, lactose, dextrose, invert sugar, syrups, maltodextrins, other hydrolyzed carbohydrates and ingredients plus any of the previous ingredients, with the exception of polyols, added sugars consumed by fermentation or non-enzymatic darkening and sugars naturally present in milk and dairy products and sugars naturally present in vegetables, including fruits, whole, in pieces, powdered, dehydrated, in pulps, purées, whole juices, reconstituted juices and concentrated juices Note: Information translated electronically from Portuguese	Mandatory inclusion of added sugars in the nutrition information table.

Source of definition	Definition	Purpose/application of definition
<p>Mexico (2020)</p> <p>Modification to the Mexican Official Standard NOM-051-SCFI/SSA1-2010 (Spanish)</p>	<p>Free sugars: Available monosaccharides and disaccharides added to foods and non-alcoholic beverages by the manufacturer, plus sugars that are naturally present in honey, syrups, and fruit or vegetable juices</p> <p>Added sugars: free sugars added to foods and non-alcoholic beverages during industrial processing.</p> <p>Note: Information translated electronically from Spanish</p>	<p>Nutritional declaration labelling of added sugars (in addition to total sugars); and Front of Pack warning labels ('excess sugars' label based on a limit of added free sugars to pre-packaged food).</p>
<p>Uruguay (2018)</p> <p>Decree No. 272/018</p> <p>(Manual for the application of the Decree - Spanish)</p>	<p>Added sugars: Refers to the added, during the process of elaboration, of:</p> <ul style="list-style-type: none"> a. sugars; b. polysaccharide hydrolysis sugars*; c. honey d. ingredients that contain added any of the previous components. <p>Sugars Includes all monosaccharides and disaccharides present in the food. Lactose and sugars naturally present in fruits and vegetables used as ingredients in food are excepted.</p> <p>(Note: Fruit juices, sweetened juices, juices concentrates and nectars are included).</p> <p>*e.g: glucose syrup, high glucose syrup fructose, glucose-fructose syrup, dextrose anhydrous or glucose anhydrous, dextrose monohydrate or glucose monohydrate, powdered fructose, invert sugar, among others.</p> <p>Note: Information translated electronically from Spanish</p>	<p>Front of Pack warning food label regulation for 'excess sugars' (and fat, saturated fat and sodium).</p> <p>Applies to packaged foods that in its preparation process, or any of its ingredients, sugars have been added and exceed the value established in the regulation.</p>
<p>Tolerable upper intake level for dietary sugars. EFSA Panel on Nutrition, Novel Foods and Food Allergens (NDA) (2022)</p>	<p>Added sugars: Mono- and disaccharides added to foods as ingredients during processing or preparation at home, and sugars eaten separately or added to foods at the table.</p> <p>Free Sugars: added sugars plus sugars naturally present in honey, syrups, fruit and vegetable juices and fruit juice concentrates</p>	<p>To provide scientific advice on a tolerable upper intake level (UL) or a safe level of intake for dietary sugars.</p> <p>A UL or a safe level of intake for total, added or free sugars could not be established. Based on available data, the intake of added and free sugars should be as low as possible in the context of a nutritionally adequate</p>

Source of definition	Definition	Purpose/application of definition
	Note: These definitions were further modified for the purpose of developing food composition databases for added and free sugars.	diet. This opinion can assist EU Member States in setting national goals/recommendations.
Supporting evidence – informed policy work on added sugar. Report prepared for VicHealth by the George Institute (V2, April 2021)	<p>Added sugars:</p> <ul style="list-style-type: none"> <i>Sugars in whatever form and from whatever source (e.g., cane sugar, beet sugar, white sugar, brown sugar, granulated sugar, icing sugar, fruit sugar, invert sugar).</i> <i>Monosaccharides and disaccharides isolated from their original food sources and added as an ingredient to foods or drinks (e.g., lactose – including lactose in whey powder, galactose, fructose).</i> <i>All sugars naturally present in processed fruit and vegetables (blended, juices, pastes, purée, powdered, concentrates, nectars) when sugars are no longer in their natural cellular structure.</i> <i>Concentrated fruit or vegetable juice or deionised fruit or vegetable juice.</i> <i>Dried fruits.</i> <i>Sugars naturally present in syrups (e.g., maple syrup, golden syrup, high-fructose corn syrup, glucose syrup, agave syrup), honeys, molasses, treacle, malt and malt extract, starch hydrolysate, maltodextrin and similar products.</i> <p>Excluded:</p> <ul style="list-style-type: none"> <i>Lactose and galactose when naturally present in milk and dairy or dairy-based products.</i> <i>All sugars naturally present in fresh and some processed (stewed, canned and frozen) fruit and vegetables (including beans) when sugars remain in their natural cellular structure (e.g. the intact fruit component (whole or pieces) of tinned fruit</i> 	VicHealth commissioned The George Institute to conduct work to inform the development of a regulatory definition of added sugars for Australia and New Zealand.

Source of definition	Definition	Purpose/application of definition
	<p>would not be added sugars, but any sugars added in the form of syrup to that product would be).</p> <ul style="list-style-type: none"> • All sugars naturally present in cereal grains including rice, pasta and flour regardless of processing (other than cereal based drinks). • All sugars naturally present in nuts and seeds regardless of processing. • Sugar substitutes that do not contains sugars, such as polyols (sorbitol) and other non-nutritive sweeteners* 	
Public Health England (Swan et al. 2018)	<p>Free sugars: all added sugars in any form; all sugars naturally present in fruit and vegetable juices, purées and pastes and similar products in which the structure has been broken down; all sugars in drinks (except for dairy-based drinks); and lactose and galactose added as ingredients. The sugars naturally present in milk and dairy products, fresh and most types of processed fruit and vegetables and in cereal grains, nuts and seeds are excluded from the definition.</p> <p>Added sugars encompasses all monosaccharides and disaccharides added to foods. This includes: all types of cane and beet sugar, including both white and brown; sugar from other sources such as coconut palm sugar; crystalline sucrose, invert sugar, dextrose and molasses; fructose, sucrose, glucose, lactose, hydrolysed lactose and galactose added as an ingredient; the sugars in honey, treacle, malt extract and all types of syrups including glucose syrup, glucose–fructose syrup, high-fructose corn syrup and rice malt syrup; sugars in all types of nectars (examples are coconut blossom nectar; date nectar, agave nectar); and the sugars in unsweetened fruit or vegetable juices, juice concentrates, fruit or vegetable purées, pastes or jam added as an ingredient.</p>	Public Health England expanded the broad definition of ‘free sugars’ set by SACN (below) into a set of working principles for estimating the free sugars content of foods, in order to estimate intakes of free sugars in the National Diet and Nutrition Survey (NDNS).
Carbohydrates and Health. Scientific Advisory	<p>Free sugars: All monosaccharides and disaccharides added to foods by the manufacturer, cook or consumer, plus sugars naturally present in honey, syrups and unsweetened fruit juices. Under this</p>	To provide clarification of the relationship between dietary carbohydrates and health and to make public

Source of definition	Definition	Purpose/application of definition
Committee on Nutrition (SACN), 2015	<i>definition, lactose naturally present in milk and milk products and sugars contained within the cellular structure of foods would be excluded.</i>	health recommendations (in response to request from the Food Standards Agency and Department of Health). SACN recommended that a 'free sugars' definition be used in nutrition advice in place of 'non-milk extrinsic sugars'.
Pan American Health Organisation (PAHO/WHO). Nutrient Profile Model (2016)	Added sugars: <i>Free sugars added to foods and beverages during manufacturing or home preparation.</i> Free sugars: <i>Monosaccharides and disaccharides added to foods and beverages by the manufacturer, cook, and/or consumer plus sugars that are naturally present in honey, syrups and juices.</i>	To develop a nutrient profiling scheme for multiple applications, including regulation of marketing, front-of-package labelling, and fiscal policies related to foods and beverages with high energy content and poor nutritional value.
EFSA NDA panel. Scientific Opinion on Dietary Reference Values for Carbohydrates and Dietary Fibre (2010)	Added sugars: <i>Term used to describe sucrose, fructose, glucose, starch hydrolysates (glucose syrup, high-fructose syrup) and other isolated sugar preparations used as such or added during food preparation and manufacturing.</i>	The opinion deals with the establishment of Dietary Reference Values for carbohydrates and dietary fibre.

Attachment E – Consideration of costs and benefits

1. Introduction

FSANZ has given consideration to the costs and benefits that may arise in relation to this proposal to satisfy the requirements of section 59 of the *Food Standards Australia New Zealand Act 1991* (FSANZ Act).

The FSANZ Act requires FSANZ to have regard to whether costs that would arise from the proposed measure outweigh the direct or indirect benefits of the proposed measure²⁹. The purpose of this consideration is to determine if the community, government and industry as a whole is likely to benefit from a move from the status quo to the proposed option.

Impact analysis requirements applying to FSANZ were changed in April 2023³⁰. As a result, undertaking a Regulation Impact Statement (RIS) in addition to the assessment required under the FSANZ Act is no longer mandated. FSANZ has undertaken its assessment in accordance with the FSANZ Act to consider the regulatory impacts and costs and benefits in line with RIS guidance.

While a RIS will not be developed and assessed by the Office of Impact Analysis (OIA) for this proposal, FSANZ has developed this attachment in line with the OIA RIS guidance.

2. What is the problem?

The Australia New Zealand Food Standards Code (the Code) permits voluntary 'no added sugar(s)' nutrition content claims to be made on foods subject to certain conditions.

Dietary guidelines provide evidence-based population health advice on healthy eating and the prevention of chronic diseases. The Australian and New Zealand dietary guidelines include recommendations about added sugars intake, being to limit intake of foods containing added sugars (Australia³¹), and to choose and/or prepare foods with little or no added sugars (New Zealand³²).

The dietary guidelines recommend to limit added sugars intake due to increased risk of excess weight gain and dental caries.

The total cost of overweight and obesity (not including the cost of dental caries) to the community is estimated to be:

- Australia – between AUD\$20bn to \$25bn per annum³³
- New Zealand – NZD\$4.5bn to \$10bn per annum³⁴

²⁹ Paragraph 59(2)(a) of the FSANZ Act

³⁰ For more information, refer to the Regulatory Impact Analysis Guide for Ministers' Meetings and National Standard Setting Bodies (June 2023)

³¹ [Australian dietary guideline documents](#)

³² [New Zealand dietary guideline documents](#)

³³ This is based on a 2015 report by PwC titled *Weighing the cost of obesity: A case for action*, with the estimated economic cost of obesity adjusted by FSANZ for population growth and inflation. A further adjustment was made to account for the economic cost of overweight, based on a 2010 study by Colagiuri (et al) titled *The cost of overweight and obesity in Australia*

³⁴ This is based on a 2021 report by Sapere and Hāpai te Hauora titled *Economic impact of excess weight in Aotearoa*, adjusted by FSANZ for population growth and inflation

The Australian Institute of Health and Welfare (AIHW) estimated the cost of dental caries in Australia in 2019-20 to be \$4.5bn³⁵.

Ministerial policy guidance is that food labels, including voluntary information such as claims, provide adequate information to enable consumers to make informed food choices to support healthy dietary patterns recommended in the dietary guidelines³⁶; and that claims support initiatives that promote healthy food choices by the population³⁷.

As the existing conditions for making 'no added sugar(s)' claims were developed prior to the release of the current dietary guidelines, it is unclear whether the 'no added sugar(s)' claim conditions in the Code align with the current Australian and New Zealand dietary guidelines, and support consumers to make informed choices in line with these guidelines when purchasing products with added sugars claims. Please see sections 1 and 2 of the call for submissions (CFS) for a full statement of the problem, relevant background and history of added sugar claims.

A rapid literature review of evidence relating to consumer understanding and responses to 'no added sugar' claims on food products is described in Supporting Document 1 (SD1) and summarised in section 3.2 of the CFS. Key findings from the available evidence suggest the presence of 'no added sugar(s)' claims can influence consumers' perceptions of healthfulness of a food and can influence their purchasing decisions.

3. What options are being considered?

Option 1 - maintain the status quo

In any consideration of changes to regulation, the status quo must be a part of FSANZ's assessment.

This option would maintain the existing conditions for making voluntary no added sugar or unsweetened nutrition content claims in the table in S4—3 of schedule 4 of the Code.

Option 2 – amend the Code to define and clarify added sugars for the purposes of making no added sugar(s) (and unsweetened) claims

This option would amend the existing conditions in the table in S4—3 of schedule 4 of the Code to define added sugars and clarify the foods that are permitted to make voluntary 'no added sugar(s)' or 'unsweetened' (or synonyms of these descriptors) nutrition content claims.

There are no other measures (whether available to FSANZ or not) that would be more cost-effective than a food regulatory measure developed or varied as a result of the proposal.

4. Consideration of costs and benefits, and likely net benefit

The purpose of this section is to consider the costs and benefits of the proposal (Option 2 for the purposes of this analysis) to determine whether the proposal would result in a net benefit.

³⁵ Oral health and dental care in Australia, Australian Institute of Health and Welfare, last updated 17 March 2023

³⁶ [Policy guideline on food labelling to support consumers to make informed healthy food choices](#)

³⁷ [Policy guideline on nutrition, health and related claims](#)

Not all of the impacts can be quantified, due to either:

- a lack of data (stakeholders are invited to fill any data gaps)
- the nature of the impact making it extremely difficult to quantify (e.g. the value of informed choice to consumers).

Whether an impact is quantified or not does not reflect the significance of the impact. All dollar values used in this assessment are Australian dollar values unless stated otherwise.

4.1 Consumer impacts

4.1.1 Benefits to consumers

Less potentially misleading information and more informed choice

The policy intent is that ‘food labels (including optional information like claims) provide adequate information to enable consumers to make informed food choices to support healthy dietary patterns recommended in the dietary guidelines’³⁸. The dietary guidelines are evidence-based population health advice on healthy eating and the prevention of chronic diseases.

Lack of alignment between the conditions for making added sugar claims and the dietary guidelines undermines this intent. Information on the absence of ‘added sugars’ by voluntary nutrition claims can enable consumers to make informed choices about sugar in their diet.

Available evidence suggests the presence of ‘no added sugar(s)’ claims may influence consumers’ perceptions of healthfulness of a food. Defining and clarifying ‘added sugars’ to align claims about added sugars with dietary guidelines supports the policy intent of enabling consumers to make informed choices and reduces the potential for them to be misled.

Alignment between claim conditions and dietary guidelines also supports education and other healthcare initiatives, which would further enhance the benefit to consumers of more informed choice.

The scale of this impact is limited by the following factors:

- consumers choose foods for a variety of reasons, many of which are not health related³⁹
- food labels are one of many sources of information that may inform consumers’ choice of foods to eat.

As a result, defining and clarifying the conditions for making added sugar claims may not lead to a positive outcome for all consumers.

The value of the benefit to consumers has not been quantified due to the complexity of valuing a benefit of this nature.

Potential for health improvements

This proposal could lead to improved health outcomes, however the extent of this benefit is likely to be small as a standalone intervention. The improved health outcomes would arise from more people eating a diet closer to the dietary guidelines.

³⁸ Refer to the *Policy Guideline on Food Labelling to Support Consumers to Make Informed Healthy Choices* for more information

³⁹ For further discussion of the value of ‘no added sugar’ claims relative to other product attributes, refer to the consumer evidence section of the CFS at Section 3.2

The extent of any health improvements have not been quantified, however they are expected to be small or non-existent for most individuals. This intervention only represents a modest intervention in terms of the wider policy intent of dietary guidelines. However, it is well understood that health costs to the economy are significant and even small improvements in outcomes can be cost effective.

4.2 Food industry impacts

4.2.1 Benefits to industry

Ingredient suppliers – potential greater demand for alternative ingredients

The food industry produces food that consumers demand, which includes products that make voluntary 'no added sugar' and 'unsweetened' claims. Where a product is no longer able to use these claims, industry may (in some instances and where possible) reformulate the product in order to continue to meet consumer demand and make claims. This may increase demand for certain ingredients. However, as mentioned below it is uncertain how likely this is.

Demand may also increase for other alternative food and drinks as a result of the removal of the labelling.

4.2.2 Costs to industry

The expected cost impacts on industry are:

- Quantifiable:
 - Relabelling
- Unquantifiable:
 - Potential lost sales from products with removed claims
 - Reduced demand for ingredients which are captured in the claim conditions where products are reformulated to retain 'no added sugar' or 'unsweetened' claims

Costs to re-label impacted products

The estimated total industry cost to re-label products is approximately \$7.63 million for one-off costs of changing labels. Data limitations mean this estimated cost can only be very approximate. How this figure was calculated is explained in the following sub-sections.

Number of impacted products

Costs have been measured on a per stock keeping unit (SKU) basis. One SKU covers all containers with the same unique package type, shape, size, brand and contents.

For instance, one SKU covers:

- All 160 g tubs of the same yoghurt with the same label, produced by the same company with the same brand. This is a different SKU to a 1 kg tub or a different shaped tub of the same yoghurt produced by the same company; and
- All identical cartons of the same 1 L oat milk, of the same shape, produced by the same company with the same label.

To estimate the number of SKUs, FSANZ used the following data sources:

- A scan by FSANZ of three major Australian supermarkets that identified 650 products within selected product categories that currently carry 'no added sugar(s)' and 'unsweetened' claims (see section 3.1.1 in the CFS)
- Data for New Zealand provided by New Zealand Food Safety (NZFS) from their GS1 'On Pack database' that identified 475 products within selected product categories that were purchased in the past 12 months and contained 'no added sugar' or 'unsweetened' in the 'claim' field of their database (see section 3.1.2 in the CFS).

Within these datasets, FSANZ found 1,125 products currently carrying a 'no added sugar(s)' or 'unsweetened' claim.

Using this data to estimate the number of impacted products has limitations such as:

- products are likely to be on the market that are not captured in the above datasets⁴⁰
- there may be double counting where products are sold in both Australia and New Zealand

In light of the above, FSANZ has estimated the number of impacted products available in Australia and New Zealand by assuming a 50% increase on the 1,125 products identified as carrying a 'no added sugar(s)' or 'unsweetened' claim. FSANZ therefore estimates 1,688 SKUs (rounded from 1,687.5) would be impacted by the change in claim conditions for option 2 compared to option 1. However, this may result in an overestimation of costs given changes to claim conditions would be unlikely to affect all products making claims. It is expected only a portion of the 1,688 estimated impacted SKUs will need to change labels under the proposal.

This number therefore provides an upper bound estimate which broadly accounts for:

- a wider range of categories and product sizes and flavour options across different retailers than may have been captured in the data
- online-only sales not yet identified
- 'no added sugar(s)' or 'unsweetened' claims that may not have been captured in the claims field in the New Zealand GS1 data.

FSANZ would welcome any additional data to help refine these estimates, particularly given limitations around the current available data.

Cost per SKU

FSANZ estimates it will cost a weighted-average of \$4,520 per affected SKU to change labels. This weighted-average estimate per SKU:

- is based on the 2022 Cost of labelling model for general food products, produced by Marsden Jacob consultants for FSANZ
- incorporates updates for producer price inflation to June 2023
- assumes a two-year transition period as proposed i.e. that producers have two years to remove claims from food products after the changed claim conditions are gazetted
- assumes the following label changes:
 - label design – changes to text and label layout
 - proofing the label
 - no change to the label shape or size.

⁴⁰ Including products sold outside of the main supermarkets, e.g. through online specialist businesses, or boutique shops

FSANZ does not believe a change to the label shape or size would be required, given some text and logos (and possibly an 'added sugars' line in some NIPs) would be removed rather than added.

Table 1 below shows the estimated average costs of changing labels by type of packaging. The overall estimated weighted average of \$4,520 per affected SKU accounts for the different proportions of each packaging type among food products captured in the 2022 Marsden-Jacob survey. Actual costs for producers and individual SKUs may vary above and below the estimated average costs below.

Table 1 Average re-label cost by packaging type

• Packaging Type	• Estimated average cost per SKU (AUD)
Cardboard/paperboard/paper, including folding, sleeves, blister backing card	\$3,441
Cardboard/paperboard/paper, including paper coverings & swing tickets)	\$4,166
Liquid paperboard carton	\$10,303
Plastic pouch / Doy pouch	\$7,724
Flow wrap / Sealed plastic bag	\$4,383
Plastic bag	\$2,353
Top web (pre-printed film applied to tray or vacuum sealed)	\$2,298
Parchment paper / Aluminium foil	\$1,219
Plastic in mould (no adhesive label)	\$3,787
Label directly printed onto aluminium/steel (Formula)	\$7,786
Different material types (glass, plastic, steel, etc)	\$4,009
Shrink film applied to product	\$4,058
Plastic vacuum wrap label	\$3,240
Weighted average cost over all packaging types	\$4,520

Total label change costs to industry

Based on the weighted-average cost of \$4,520 per SKU multiplied by an estimated 1,688 SKUs, FSANZ's central estimate of total label change costs to industry is approximately \$7.63 million.

Potential re-formulation costs

As noted previously, industry may choose to reformulate a product to meet the proposed changed conditions for making 'no added sugar(s)' or 'unsweetened' claims.

While this potential impact is noted, FSANZ has assumed for the purposes of estimating the cost to industry that 100% of impacted products will be re-labelled rather than re-formulated. If evidence exists that reformulation is a likely outcome this could result in higher costs to industry. The decision to reformulate to maintain a voluntary claim is ultimately a business decision for the manufacturer.

Potential lost sales from products with removed 'no added sugar' or 'unsweetened' claims

There may be less sales of impacted products where the 'no added sugar(s)' or 'unsweetened' claim is removed. This cost has not been quantified due to the complexity of valuing an impact of this nature. However, it is likely these costs will be largely offset by increased purchases of other products by consumers.

Reduced demand for ingredients captured in the claim conditions

Demand for some ingredients (inputs into the food manufacturing process) may reduce as a result of the proposal.

This will occur where:

- a food is reformulated to keep the 'no added sugar(s)' claim, resulting in the ingredient not being used
- demand for a food reduces where the 'no added sugar(s)' claim is removed, reducing demand for the ingredient

Ingredients that may be impacted include processed fruit (e.g. juice, pulp, puree and powders). Any reduction in fruit sales will impact on the agricultural sector and any fruit processors in the supply chain.

This cost has not been quantified due to the complexity of valuing an impact of this nature, including uncertainty on how food manufacturers and consumers will react to the change.

4.3 Impacts on governments

Increased effectiveness of education efforts and the promotion of dietary guidelines regarding added sugars

The effectiveness of government education initiatives may improve as a result of this proposal.

The dietary guidelines are used by government agencies to develop education messages directed at consumers with the goal of improving nutrition and health outcomes.

Lack of alignment between the intent of the dietary guidelines and food labelling (in this case 'no added sugar(s)' and 'unsweetened' claims) potentially reduces the effectiveness of this education.

In the longer-term there is the potential for some reduced health related costs for governments either directly from the change or more likely as a result of the cumulative impact of multiple initiatives.

4.4 Summary of impact analysis findings – likely net benefit

Amending the Code as proposed under option 2 will impact three main groups:

- consumers
- the food industry, specifically
 - manufacturers and importers of finished food products
 - ingredient suppliers, including other manufacturers, importers and farmers
 - retailers, where own brand products are impacted
- governments.

There is not expected to be any significant net impacts for retailers or wholesalers within the food industry (except for when own brand products are impacted). It has been assumed any cost to industry will be primarily borne by manufacturers, or ultimately passed on to consumers.

The proposal will impact products labelled as either 'no added sugar' or 'unsweetened'. Data reviewed by FSANZ indicates that most impacted products will be those labelled 'no added sugar', as not as many products labelled 'unsweetened' were identified.

Table 2 shows the main groups likely to be affected by the proposed change to claim conditions and the main potential impacts on these groups.

Table 2 Major potential impacts by group

	Potential Impact	Notes on potential impact
Consumers	Benefits	Less potentially misleading information and more informed choice. This may allow consumers to better optimise purchasing decisions generally and in line with dietary guideline recommendations. Potential for better health outcomes for consumers who choose to buy food with the claims.
Food industry		
Manufacturers and importers of finished food products	Costs	Re-labelling cost for affected products. Potential lost sales from products with removed claims and decreased demand for ingredients which are captured in the claim conditions. Potential lost sales of ingredients to final food products, where final products are re-formulated to retain 'no added sugar' claims and the ingredient is no longer used.
Ingredient suppliers	Benefits	Potential greater demand for sugar alternatives and other products.
Government	Benefits	Increased effectiveness of education efforts and the promotion of dietary guidelines regarding added sugars. Potential for some reduced health related costs.

5. Who was consulted and how was their feedback incorporated?

Please see Section 4 of the CFS for full details. Substantial surveying and discussions with a wide range of industry participants were also undertaken in 2022 as part of Marsden Jacob's development of FSANZ's cost model.

6. Conclusion of analysis: Benefits of option 2 outweigh costs

The proposal will benefit consumers by reducing the likelihood that they are potentially misled and enabling more informed choice in support of dietary guideline recommendations. This may lead to improvements in the health of the Australian and New Zealand populations by reducing the severity and/or occurrence of diet related illness. It will also support other interventions such as education.

The cost of this proposal is primarily the cost for the food industry to update food labels where 'no added sugar(s)' and 'unsweetened' claims may no longer be made. An upper bound estimate of the cost of this change is a one off cost of \$7.63m.

This intervention only represents a small intervention in terms of the wider policy intent of dietary guidelines. However, it is well understood that health costs to the economy are significant and even small improvements in outcomes can be cost effective. The total cost of the proposal is modest when compared to the economy-wide health cost of overweight and obesity (not including the cost of dental caries) estimated to be:

- Australia – between AUD\$20bn to \$25bn per annum
- New Zealand – NZD\$4.5bn to \$10bn per annum

Additionally, the cost of dental caries was estimated to be \$4.5bn in Australia alone in 2019-20 according to AIHW data.

Based on the above costs and benefits, FSANZ has concluded the proposed changes to the Code (option 2) will likely have the largest net benefit and result in a net benefit as part of a stand-alone and/or cumulative intervention and is therefore the preferred option.

Attachment F – FSANZ Consultation Hub questions

Submissions can be made via the [FSANZ Consultation Hub](https://consultations.foodstandards.gov.au) (<https://consultations.foodstandards.gov.au>). FSANZ is trialling the Consultation Hub, built on the Citizen Space platform, for public consultations on applications and proposals to change the Australia New Zealand Food Standards Code. There are 13 questions for this consultation, provided below for reference. Please complete your submission in the Consultation Hub.

All submissions will be published, including redacted versions of confidential submissions. If your submission or parts of your submission contains confidential information, you will have the opportunity to upload this separately. You will be required to provide a redacted version of the submission that will be published.

P1062 – Defining added sugars for claims – Consultation questions

Proposed changes to 'no added sugar(s)' claim conditions

A free text field is available for each of the following 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?

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.

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?

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?

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.

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?

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?

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?

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?

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?

Data and evidence

Submitters are invited to provide any data relevant to these questions in the form of an editable PDF, Excel spreadsheet or Word Document.

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)?
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)?
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)?

Additional comments

A free text field is provided for submitters to provide any further comments or input. Any other relevant documents can also be uploaded here.