AUSTRALIAN FOOD & GROCERY COUNCIL

AFGC SUBMISSION

Call for submissions – Proposal P1062 Defining added sugars for claims

6 October 2023

PREFACE

The Australian Food and Grocery Council (AFGC) is the leading national organisation representing Australia's food, beverage and grocery manufacturing sector.

With an annual turnover in the 2021-22 financial year of $144 billion, Australia's food and grocery manufacturing sector makes a substantial contribution to the Australian economy and is vital to the nation's future prosperity.

The diverse and sustainable industry is made up of over 17,000 businesses ranging from some of the largest globally significant multinational companies to small and medium enterprises. Each of these businesses contributed to an industry-wide $3.2 billion capital investment in 2021-22.

Food, beverage and grocery manufacturing together form Australia's largest manufacturing sector, representing over 32 per cent of total manufacturing turnover in Australia. The industry makes a large contribution to rural and regional Australian economies, with almost 40 per cent of its 271,000 employees being in rural and regional Australia.

It is essential to the economic and social development of Australia, and particularly rural and regional Australia, that the magnitude, significance and contribution of this industry are recognised and factored into the Government's economic, industrial and trade policies.

Throughout the COVID-19 pandemic, the food and grocery manufacturing sector proved its essential contribution to Australian life. Over this time, while our supply chains were tested, they remained resilient but fragile.

The industry has a clear view, outlined in *Sustaining Australia: Food and Grocery Manufacturing 2030,* of its role in the post-COVID-19 recovery through an expansion of domestic manufacturing, jobs growth, higher exports and enhancing the sovereign capability of the entire sector.

This submission has been prepared by the AFGC and reflects the collective views of the membership.

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?

The AFGC supports the food industry to continue being permitted to make nutrient content claims on food and drinks in relation to sugar such as 'no added sugar' and 'unsweetened' based on the addition of ingredients to foods.

While the AFGC agrees in principle with the dietary guidelines being a sound basis for the approach upon which claim conditions are based, it does not agree with the logic regarding fruit (and its different forms) as an added sugar. The food industry uses fruit in different forms for many reasons beyond its natural sweetness such as colour, texture, and flavour.

The conditions proposed are not only based on the addition of ingredients; hydrolysis - a food process - is also included. FSANZ has recognised that this process used in the production of cereal-based beverages provides a technical function to improve palatability and results in an unavoidable increase in sugar concentration. However, this is not the only technical purpose for which hydrolysis may influence the sugar level. An example is the hydrolysis of polysaccharides present in many fruits and vegetables to obtain prebiotics GOS and FOS that may result in incidental sugar production[1].

The AFGC seeks clarity on the concurrent proposal P1058 - Nutrition labelling about added sugars, and how this work will be integrated with P1062.

The AFGC specifically requests that for 'no added sugar' and 'unsweetened' claims, the definition of added sugar pertains only to claims, and not be automatically adopted for Proposal P1058 without further consultation of stakeholders.

2. FSANZ proposes a food displaying a 'no added sugar(s)' claim must not contain any '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

[1] Frontiers | Technological Aspects of the Production of Fructo and Galacto-Oligosaccharides. Enzymatic Synthesis and Hydrolysis (frontiersin.org)

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
deionised fruit juice.

The AFGC seeks clarity on the wording of the proposed definition of 'added sugars' as presented in Table 2 of section 5.2.1.3 (CFS p18).

The table indicates ‘no change’ to honey and malt/malt extracts, however, the proposed wording has been changed. The AFGC considers this wording is now open to interpretation as to whether these ingredients (which contain sugar) are sugar and subsequently may have unintended consequences in proposal P1058.

Under Schedule 4 currently, the wording states 'food contains no added sugars, honey, malt, or malt extracts'. This wording clearly separates sugars which are sugars from ingredients that contain sugar.

In the interest of reducing confusion and preventing interpretation issues, the AFGC recommends that sugars be grouped, and ingredients that contain sugar be separately grouped. See the following change:

(c) For the purposes of conditions (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

and the following ingredients derived from any source:

(i) malt;

(ii) malt extracts;

(iii) concentrated fruit juice, unless the food for sale is fruit juice;

(iv) deionised fruit juice

(viii) honey;

In P1058, it is proposed that ingredients that contain sugar (but are not sugar) are being treated as added sugar, and as a consequence will be declared as added sugar in the nutrition information panel (**NIP**). While ingredients that contain sugar might preclude a “no added sugar” claim, it should not mean they are declared as added sugars in the NIP.

As raised previously, the AFGC seeks clarity as to how P1062 will relate to P1058. For this reason, the points below are relevant to P1058.

Maltodextrin (mono-and disaccharides components only)

The AFGC notes that maltodextrin is considered an added sugar under the current no added sugars* claims standard thus its presence precludes no added sugar claims.

In relation to P1058, the AFGC argues that added sugars should only include mono- and disaccharides. Polysaccharides of three or more monosaccharide molecules should be exempt based on the Food Standards Code stating that sugar in the Nutrition Information Panel (NIP) is only mono- and disaccharides (Standard 1.2.8-4). For an added sugar claim (and in labelling in the nutrition information panel), the proportion of mono- and disaccharides (contributed by these ingredients) should be included in any ‘added sugars’ calculation. This is consistent with the recommendations developed by the USFDA.

Maltodextrin is typically composed of a mixture of chains that vary from three to 17 glucose units long. Depending on the length of the glucose chain, it can physiologically act as a prebiotic fibre, delivering a benefit different from that of mono and disaccharide maltodextrins that deliver sweetness. It is therefore important to distinguish longer-chain maltodextrin compared with shorter-chain mono and disaccharide forms when labelling these components in the NIP as an added sugar.

Malt or malt extracts (mono-and disaccharides components only)

Similar to maltodextrin, the presence of malt and malt extracts prevents “no added sugar” claims from being made. However, for added sugars in the NIP under Standard 1.1.2—2 and current Schedule 4 (sugars), malt and malt extracts are not considered sugar.

With regards to P1058, the AFGC would consider only mono- and disaccharides contributed from malt and malt extracts as ‘added sugars’ in the NIP. Polysaccharides of three or more monosaccharide molecules should be exempt based on the Food Standards Code stating that sugar in the NIP is only mono- and disaccharides (Standard 1.2.8—4).

Concentrated fruit juice

The AFGC recommends that concentrated fruit juice when added to food or beverages with free water to reconstitute the juice to single strength should not be considered “added sugar”. However, where there is insufficient free water and sugar is above single strength, only the amount of sugar that is not reconstituted to single strength would be counted as added sugar.

Additionally, fruit juice concentrates are often used for colour e.g. blackcurrant concentrate. When used for this purpose, it has no function in the final food other than colouring and contributes negligible nutrients overall, thus the AFGC requests an exemption from added sugar labelling in these circumstances.

Single-strength juice is a term assigned to **juice** at its **natural strength**, either directly from the extraction process or in its reconstituted form[2]. Regarding single-strength juices, the AFGC requests a specific addition to the proposed schedule (Page 39), for condition (e), the list of products that are exempt from the conditions of the claim that a frozen product type be added to the list in the explanatory notes (Page 44), where bottled and canned fruit are discussed.

Furthermore, packaging design and materials are a dynamic area. The AFGC seeks clarity that other forms of packaging would be treated similarly to a can.

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.

The AFGC notes and supports the variation that excludes naturally occurring lactose in dairy ingredients such as milk powders, whey protein concentrate, etc. The AFGC seeks confirmation from FSANZ in the approval report that naturally occurring sugars within dairy ingredients are not considered 'added sugars' for a 'no added sugar' claim.

3. **FSANZ proposes that '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?

The AFGC does **not** support FSANZ's proposed approach to capture D-tagatose in the definition of added sugars.

[2] Methodology-for-the-Reconstitution-of-Juice-Concentrate.pdf (australianbeverages.org)

The AFGC recommends excluding non-traditional, low-energy sugars from 'added sugars' given their reduced-energy contribution to the diet, reduced risk of dental caries, and their different metabolic pathway.

The AFGC agrees that foods containing low-energy sugars (mono- and disaccharides) listed in subsection S11—2(3) of Schedule 11 **not be permitted** to display 'unsweetened' claims as these low-energy sweeteners are used primarily for the purpose of providing sweetness.

According to FDA GRAS Notice documentation[3], *D-tagatose has a reduced physiological energy value, is non-cariogenic exerts a prebiotic effect and is not associated with a glycemic response.*

As previously discussed, the concern is that D-tagatose would be captured under P1058 in the labelling of added sugar in the NIP and treated in the same way as traditional sugar.

Additionally, the AFGC seeks clarity on how FSANZ will evaluate other non-traditional sugars and what criteria will be used to assess their impact on "no added sugar" claims. The AFGC is aware that FSANZ is assessing Application A1247 – D-allulose as a novel food and if permitted, D-allulose will be added to foods as a low-energy substitute for sugar. Thus, it would be useful for FSANZ to make a clear statement on the guardrails/criteria used to assess future non-traditional sugars.

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?

The AFGC supports the FSANZ approach that foods containing very low-energy sugars are not permitted to display "unsweetened" claims but be permitted to make a "no added sugar" claim as low-energy sweeteners are used for the purpose of providing sweetness.

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?

[3] USFDA. GRAS Notices GRN No. 78 D-Tagatose https://www.cfsanappsexternal.fda.gov/scripts/fdcc/index.cfm?set=GRASNotices&id=78&sort=GRN_No&order=DESC&startrow=1&type=basic&search=tagatose

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.

The AFGC does **not** support the FSANZ proposed approach that a food displaying a 'no added sugar(s)' claim must not contain the fruit products listed as an added ingredient (including as an ingredient of a compound ingredient) apart from lemon and lime juices.

What is perplexing, is that dried fruit and juice are identified as core foods and recommended (albeit in small amounts) in the ADGs and contribute positive nutritional benefits.

The AFGC proposes the following are considered exempt fruit products:

Fruit format	**Reason these ingredients when added to food or beverages should not be considered "added sugar."**
Dried Fruit	Dried fruit is a core, whole food according to the Australia Dietary Guidelines (ADGs). While recommendations are to limit intake (30g), nevertheless it remains a core food due to nutrient contribution. Note that "stakeholders had mixed views on whether sugars from dried fruit should be included because of the beneficial nutrients they provide." CFS Page 22.
Single-strength juice	**Single-strength juice** is a term assigned to **juice** at its natural **strength**, either directly from the extraction process or in its reconstituted form[4]. Juice is a core food according to the ADGs. While recommendations are to limit intake (125 ml per serve to be used occasionally as a substitute for other foods in the group.), nevertheless it remains a core food due to nutrient contribution.
Concentrated juice (when reconstituted to single strength in the presence of free water)	Concentrated juice when added to food or beverages with free water to reconstitute the juice to single strength should not be considered "added sugar."

[4] Methodology-for-the-Reconstitution-of-Juice-Concentrate.pdf (australianbeverages.org)

	Where there is insufficient free water and sugar is above single strength, only the amount of sugar that is not reconstituted to single strength would be counted as added sugar. Fruit juice concentrates are used for an alternative technical function i.e., as a colour. AFGC requests an exemption from added sugar labelling in these circumstances. Note the USFDA (2016[5]) in their definition of added sugar includes sugars from concentrated fruit or vegetable juices that are more than what would be expected from the same volume of 100 per cent fruit or vegetable juice of the same type.
Puree/pulp	A fruit purée is of itself single strength unless 'concentrated' is listed in its name. According to Codex* [5], fruit purée for use in the manufacture of fruit juices and nectars is the unfermented but fermentable product obtained by suitable processes e.g. by sieving, grinding, and milling the edible part of the whole or peeled fruit without removing the juice. Puree represents a step along the continuum of whole to chopped/sliced to mash, and whole/chopped fruit is not considered "added sugar." * Please note that Codex General Standard for Fruit Juices and Nectars[6] provides relevant descriptions for certain designated juice products (including puree).
Concentrated purée	Concentrated fruit puree is fruit puree that is concentrated by removing a defined proportion of water and should be treated in the same manner as dried fruit. *CODEX states: Concentrated fruit purée for use in the manufacture of Fruit Juices and Nectars is obtained by the physical removal of water from the fruit purée in an amount sufficient to increase the Brix level to a value at least 50% greater than the Brix value established for reconstituted juice from the same fruit, as indicated in the Annex.*

[5] https://www.ecfr.gov/current/title-21/chapter-I/subchapter-B/part-101#101.9

	* Please note that Codex General Standard for Fruit Juices and Nectars[4] provides relevant descriptions for certain designated juice products (including puree).
Paste	A paste made from blended dried fruit (e.g., date paste from blended dates) without any additional sugar. As stated above, dried fruit is a core, whole food according to the ADGs. While recommendations are to limit intake, nevertheless it remains a core food due to nutrient contribution.
Powder	Powders are essentially dehydrated fruit and vegetable purees that have all moisture removed and should be treated in the same manner as dried fruit. Note: Freeze-dried fruits in granule and powder form are readily available and can be used to coat/dust products, sprinkled on cereals, used in smoothies and many other applications.

Regardless of the regulatory outcome, there is significant variation and uncertainty in consumer perception[7] of whether particular ingredients are 'added sugars' which indicates education is required to help consumers understand claims that relate to added sugar. This is important given that the 'no added sugar' 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[4].

Unlike in the case of a "no sugar" or "sugar-free" claim, a "no added sugar" claim is likely to lead to a reasonable consumer expectation that the product simply contains no sugars that are **added** during manufacturing or food preparation, not sugars that are inherent or naturally occurring in the food (such as fruit and different forms of fruit).

The idea that a "no added sugar" claim increases a consumer's perception of the healthiness of a product does not necessarily mean that a "no added sugar" claim [made in accordance with the conditions for making such a claim] is likely (or unlikely) to mislead consumers. A "no added sugar" claim will only be misleading or deceptive if a reasonable consumer is likely to be misled or deceived as to the content or types of sugars that are in the product as a result. To avoid the risk of misleading consumers, the AFGC recommends that FSANZ re-consider the proposed claim conditions of "added sugar" and not include sugars that are inherent or naturally occurring in the fruit or fruit product.

[4] https://www.fao.org/fao-who-codexalimentarius/sh-proxy/es/?lnk=1&url=https%253A%252F%252Fworkspace.fao.org%252Fsites%252Fcodex%252FStandards%252FCXS%2B247-2005%252FCXS_247e.pdf

[7] Consumer evidence summary 2023. Consumer evidence summary no added sugar claims_final.pdf (foodstandards.gov.au)

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. a 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?

The AFGC supports the FSANZ's proposed approach that *fruit* does not include legumes, fungi, herbs, nuts, spices or seeds for the claim conditions,

The AFGC agrees that a fruit product that is the food for sale (e.g. fruit juice) be permitted to make a 'no added sugar(s)' claim.

The AFGC also supports the conditions 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).

The AFGC, however, does **not** support the approach that a blend or combination of different fruit products (e.g. fruit juice and fruit purée, fruit pieces and fruit juice) will not be permitted to make the claim.

The AFGC strongly holds the view that any fruit juice that meets the compositional requirements of *Standard 2.6.1 - Fruit juice and vegetable juice*[8] should be able to have any permitted ingredient added to it without sacrificing the 'no added sugars' claim.

AFGC members' feedback raises concern regarding the loss of consumer value of a "no added sugar" claim if blends or combinations of fruits are not exempt. There will be no obvious front-of-pack signal to help consumers choose a fruit product that is 100% mixed fruit and a similar product that is mixed fruit + other added sugars. Some examples are elaborated below.

JUICES

A **'tropical juice'** would not be permitted to make a no added sugar claim containing: Reconstituted Pineapple Juice (93%), Mango Purée (5%), Banana Purée (1%), Vitamin C.

- Mangos, bananas and various other types of fruits cannot be 'juiced'. Instead, these sorts of fruits are pureed.
- Under CODEX Stan 247-500 fruit purees can be used in the manufacture of fruit juices, nectars and drinks.

[8] Australia New Zealand Food Standards Code – Standard 2.6.1 – Fruit juice and vegetable juice (legislation.gov.au)

- Fruit purees can be pureed whole fruit OR can be reconstituted from concentrates if enough free water is available (just as juice can be)
- The mango and banana purees in the example above are not concentrated, so why should a product sold as juice be prohibited from making a no added sugar claim if these are included in their formulation?
- If not concentrated, fruit juices and purees should not be considered added sugars.

An 'Apple Mango' fruit juice would not be permitted to make a no added sugar claim containing: Reconstituted Apple Juice (91.3%), Mango (3.5%) [puree or reconstituted], Vitamin C, food acid.

FRUIT DRINKS

As drafted under P1062, a fruit drink as defined under Standard 2.6.2—2 Standard 2.6.2—2 Non-alcoholic beverages and brewed soft drinks[9], would not be permitted to make a "no added sugar" claim. A fruit drink essentially is a diluted juice that falls outside the proposed added sugars definition for claims based on the addition of ingredients to food. Often these drinks contain less sugar than 100% juice due to the water that is added. FSANZ's current proposal to prohibit a 'no added sugar' claim would likely discourage consumers from selecting this lower-sugar fruit drink option.

An **'Apple and Plum fruit drink'** would not be permitted to make a no added sugar claim containing water, reconstituted fruit juice (apple 34%, plum, 10%) natural flavours, food acid, vitamin C, black carrot concentrate, stabiliser.

A **'Cranberry fruit drink'** would not be permitted to make a 'no added sugar' claim containing water, reconstituted cranberry juice (27%), pectin, sucralose, vegetable and fruit concentrate (carrot, cranberry), natural flavour - despite containing only 1g sugar per 100ml, no added sugar, and offering a lower sugar option vs. 100% juice (e.g. 100% apple juice typically contains 11.7g sugar/100ml).

Fruit drinks are directed by compositional requirements and must contain fruit juice to support the classification as a fruit drink.

As background, to meet the requirements of Standard 2.6.2—2 Non-alcoholic beverages and brewed soft drinks, 'Fruit drink' is defined as

prepared from:

(a) one or more of the following:

(i) fruit juice;
(ii) fruit purée;
(iii) concentrated fruit juice;
(iv) concentrated fruit purée;
(v) comminuted fruit;
(vi) orange peel extract; and

[9] Australia New Zealand Food Standards Code – Standard 2.6.2 – Non-alcoholic beverages and brewed soft drinks (legislation.gov.au)

b) one or more of the following: (i) water; (ii) mineralised water; and (iii) sugars.

The existing regulation allows for 'no added sugar' claims on such drinks, providing certain conditions are met. However, according to the new proposal, a 'no added sugar' claim cannot be made when juice is added to a drink, thus making it a fruit drink.

CUSTARD

A 'Pear and blueberry custard' would not be permitted to make a no added sugar claim containing Fruit [Pear Purée (67%), Blackberry Purée (3.0%)], Full Cream Milk (16%), Water, Cornflour, Natural Vanilla Flavour.

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 sugar concentration in cereal-based plant milks made using hydrolysis is ≤ 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?

The AFGC supports the approach by FSANZ that 'no added sugar' claims are permitted when the sugar concentration in cereal-based beverages made using hydrolysis is ≤ 1.5% (and the product otherwise meets claim conditions).

Manufacturers support a reasonable, low threshold as cereal-based beverages depend on starch hydrolysis for their eating characteristics.

In cereal-based beverages, sugars are created by processes that are primarily designed to soften starch and improve texture rather than create sugar. Targeted enzyme breakdown of cereal components is required to remove grittiness and the benchmark measure for the breakdown of starch is not sweetness but the overall drinking experience. A creamy drinking experience is not improved by merely creating sugars.

The AFGC understands that cereal hydrolysis via enzyme initiation is complex, particularly when dealing with very high volumes of beverage manufacture (e.g. 30000L per production). While a target level of 1.5% sugar concentration is sought, there can be batch-to-batch variation of ± 0.5% (e.g. up to 2%). The proposed threshold of 1.5% is therefore considered too low by some members, without taking into account batch-to-batch variation.

Lastly, the terminology in the P1062 draft variation refers to 'cereal-based plant milk' which technically does not exist in the food standards code. The AFGC recommends amending this to 'cereal-based beverage' as per Standard 1.1.2.

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?

The AFCG supports the FSANZ approach that the existing condition be maintained for food bearing an "unsweetened" claim and that it also meets the conditions for a "no added sugar" claim.

FSANZ is also proposing that low-energy sugars are not permitted to display an "unsweetened" claim (Q9) which the AFGC supports but recommends that foods containing these low-energy sugars be permitted to make a "no added sugar" claim. Low-energy sweeteners are used to provide sweetness.

The AFCG understands that currently under Standard 1.1.2 (and Schedule 4) - alongside malt and malt extracts - the following are not considered sugars (sorbitol, mannitol, glycerol, xylitol, polydextrose, isomalt, maltitol, maltitol syrup, erythritol or lactitol).

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).

The AFGC proposes that products that contain low energy sugars and/or intense sweeteners such as sorbitol, mannitol, glycerol, xylitol, polydextrose, isomalt, maltitol, maltitol syrup or lactitol not be permitted to bear an "unsweetened" claim as their function is to add sweetness.

However, the AFGC supports foods containing these low-energy sugars and/or intense sweeteners to be permitted to make a "no added sugar" claim as they are not considered added sugars.

The AFCG understands that currently under Standard 1.1.2 (and Schedule 4) - alongside malt and malt extracts - the following are not considered sugars: sorbitol, mannitol, glycerol, xylitol, polydextrose, isomalt, maltitol, maltitol syrup, erythritol or lactitol.

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?

The AFGC does not agree with the two-year transition period and no stock in trade period.

The AFGC recommends that given there is no food safety issue, there be a five-year transition period with enduring stock in trade for the following reasons:

- Food products with long shelf lives, such as UHT cereal-based drinks, will be impossible to comply with the provision.
- The food industry continues to face multiple potential label changes within the next 1-3 years; arising from wide-impacting requirements such as allergen labelling, and Health Star Rating.

- These multiple label changes require a coordinated and flexible approach to avoid prohibitive cost and complexity.
- These changes will impact most of the food and beverage products on offer to consumers directly as well as some of those used by the food service industry.
- For manufacturers needing to reformulate to keep their current sugar claims and comply with the new conditions, time is needed to go through the steps of product development, including shelf life testing, which can take up to 12 months for longer-life products, such as UHT beverages,

The AFGC raises the issue of the concurrent proposal P1058 - Nutrition labelling about added sugars, which will be mandatory changes to the NIP and therefore all food products will be impacted, and question, how this will be integrated with P1062, and the potential for numerous label changes for each of these.

Data and evidence

11. **Do you have any data or are you aware of published data on the number of products with 'no added sugar(s)' or 'unsweetened' claims in Australia and/or New Zealand (see data used for this proposal in section 3.1 of the Call for submissions document)?**

The AFGC has no additional data to that which has already been sourced.

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 in section 3.2 of the Call for submissions report and Supporting Document 1)?

The AFGC has no additional data to that which has already been sourced. Please refer to the AFGC's response to Q5 regarding consumer perception of no added sugar.

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 in Attachment E to the Call for submissions document)?

The AFGC understands from member feedback that the costs of labelling can vary widely depending upon the company, product to product, and the complexity of change.

There is significant variation reported in packaging costs related to the type of packaging, e.g. cardboard, pouches, tubs, plastic wraps, sleeves, etc.

Other additional costs include product reformulation, ingredient sourcing, additional staff time, staff training, managing general enquiries, and the development and implementation of new company procedures and additional record keeping demonstrating compliance.

Individual member companies may provide feedback in the area to FSANZ.

The AFGC is also aware that FSANZ has been provided data on costs of labelling changes from the food industry, so it defers to them to look at what has been provided previously.

Additional comments

Allowance for carrier ingredients in additives

The AFGC proposes that carriers, which are included in the definition of added sugars for the purposes of making sugar claims [and which are often present in vitamins and minerals, and/or additives], be exempt from the claim conditions. That is, foods containing vitamins and minerals, and/or additives that contain carriers, such as maltodextrin, be permitted to bear 'no added sugar(s)' and 'unsweetened' claims.

Carriers are used for functional purposes, not for adding sweetness, and are present in insignificant amounts in the final product. The amount of sugar contributed by these additives usually does not change the total sugar content on the nutrition information panel of the final product.

For example,

- A ready-to-eat breakfast cereal based on corn flakes - Contains 0.037% vitamins and minerals and 0.00372% maltodextrin which is used as a carrier in the vitamin & mineral premix (% are in the final food)

- A ready-to-eat breakfast cereal based on rice, wheat and oats flakes - Contains 0.036% vitamins and minerals and 0.00325% maltodextrin which is used as a carrier in the vitamin & mineral premix (% are in the final food)

Incidental hydrolysis

The AFGC seeks clarity on the labelling of sugars that are produced from incidental hydrolysis.

For example, starch-based ingredients may be added (e.g. sauces or soups) as thickeners which in an acidic environment, and the presence of water, has the potential for some hydrolysis to occur. This is likely at incidental levels, however, technically any starch has the potential for some hydrolysis under the right conditions. Further, this is not desired as it has the potential to compromise the product's integrity such as the viscosity of the sauce.

If ingoing food additives are labelled as per Food Standards Code, Schedule 7 [i.e. thickener (X)], it would be challenging to then label separately in the nutritional information, in a consumer-friendly way that explains the potential 'added sugar' source. Quantifying the 'added sugar(s)' (likely at incidental levels) versus 'total sugar' in this scenario.

There is complexity in defining changes in (a) the production process, &/ or (b) incidental changes over the product's shelf life, so as not to mislead consumers in any communication.

This approach extends to the use of the above definition of 'added sugars' for the upcoming P1058 nutritional labelling of added sugars.

Education

Australian consumers must benefit from any label changes. The AFGC is concerned that added sugars are poorly understood by consumers and believes a considerable amount of consumer education will be needed.

The AFGC is therefore very supportive and strongly encourages a communication strategy to consumers, industry and other stakeholders, in addition to the development of education resources. The government needs to consider the part they will play in this education and allow for adequate budgeting of these resources.

Regulatory support to the industry

It is also critical that the jurisdictions that assess compliance, and that the food industry that must abide by the conditions, clearly understand the label requirements.

Under both P1062 and P1058, regulatory support of ingredient suppliers and food businesses will be required in their determination of added sugars accurately in product specifications.

Testing will be difficult for ingredient suppliers to confirm the source of sugar (types of sugars) as there is no test method for 'added sugars' per se'. Complex testing would be required to understand if 'added' sugar was in the ingredient (i.e. honey testing is complex and not always 100%, uses comparison and biological products inherently have variation).

Potential changes to product information forms (PIFs, or product specifications) may be required. Ingredient suppliers range from multinational food companies to small (and very resource-limited) establishments that will struggle to implement added sugars from a workload and expertise perspective. Thus, education and regulatory support services for ingredient suppliers as well as finished food manufacturers will be essential.

Consultation period

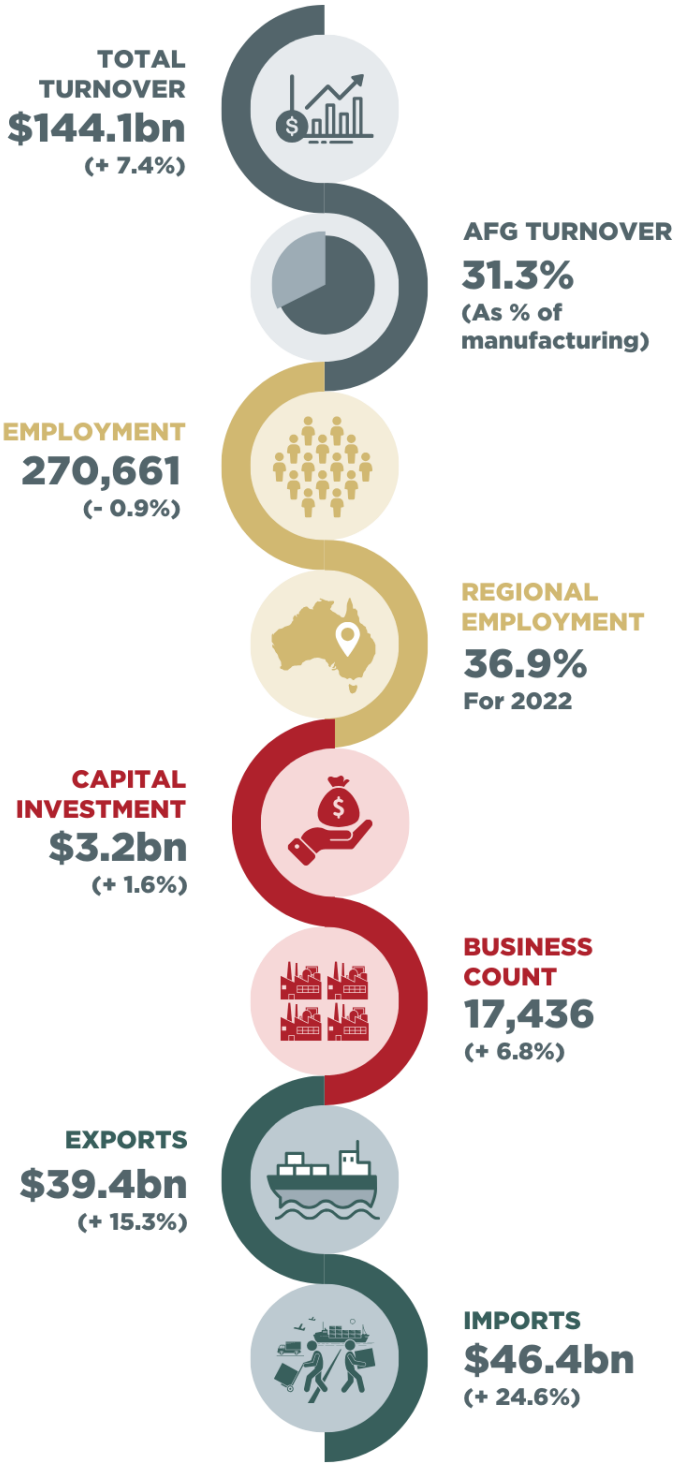
The AFGC has attempted to respond to the Call for Submission paper in good faith. In doing so, points and positions presented previously in AFGC submissions on defining added sugar and labelling in the nutrition information panel have been restated.

The concurrent proposals P1058 and P1062, while dealing with different aspects of added sugar, are interrelated and should be considered together. This is to mitigate any risk of misleading and confusing consumers while also potentially reducing their trust in labelling if the result is a product label that may voluntarily carry a ‘no added sugar’ claim, while at the same time potentially being required to label for mandatory added sugars in the NIP.

The AFGC acknowledges the recently granted extension of the consultation period to 8 October. The AFGC, however, reiterates its concern with the short consultation period for these proposed amendments to the Code. These matters are technically complex and far-reaching, and the four weeks do not provide adequate opportunity for peak bodies such as AFGC to fully consider, seek input and consult broadly with members.

State of Industry
2021-22

AUSTRALIAN FOOD & GROCERY COUNCIL



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The figures on this page exclude the fresh food sector and are based on 2021-22 ABS data.

1: This is total number of employees, head count basis and does not include seasonal employees.
2: Gross fixed capital formation for food, beverage and tobacco manufacturing subsector is taken as indicator of capital investment.