



26 June 2024

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Tēnā koe

Attached are comments that the New Zealand Food and Grocery Council wishes to present on the *Call for Submissions: Proposal P1063 – Code Revision (2024) – Added Sugar(s) claims*.

As stated in the attached we have concerns about the proposal and are available to discuss these further with you.

Thank you for your consideration of this important matter.

Ngā mihi nui

A handwritten signature in blue ink, appearing to be "Raewyn Bleakley". The signature is stylized and fluid.

Raewyn Bleakley
Chief Executive



Call for submissions: Proposal P1062 – Defining added sugars for claims

**Submission by the New Zealand Food and Grocery
Council**

26 June 2024

NEW ZEALAND FOOD AND GROCERY COUNCIL

1. The New Zealand Food and Grocery Council (**NZFGC**) welcomes the opportunity to comment on the *Call for Submissions: Proposal P1063 – Code Revision (2024) – Added Sugar(s) Claims (the CFS)*.
2. NZFGC represents the major manufacturers and suppliers of food, beverage and grocery products in New Zealand. This sector generates over \$40 billion in the New Zealand domestic retail food, beverage and grocery products market, and over \$34 billion in export revenue from exports to 195 countries – representing 65% of total good and services exports. Food and beverage manufacturing is the largest manufacturing sector in New Zealand, representing 45% of total manufacturing income. Our members directly or indirectly employ more than 493,000 people – one in five of the workforce.

THE PROPOSAL

3. Food Standards Australia New Zealand (**FSANZ**) has prepared a proposal with the stated intent to correct a typographical error in section S4—3 and remove a redundant term from the Australia New Zealand Food Standards Code (**the Food Standards Code**). The Code's conditions for making *no added sugar(s)* claims were recently amended as a result of proposal P1062 – Defining added sugars for claims. FSANZ has asserted that the amendments made by that proposal resulted in a typographical error in section S4—3 of the Code. Likewise, P1062 resulted in amendments to the Food Standards Code that made the use of the term “*sugars*” redundant, so P1063 seeks to remove this term.

Assessment by FSANZ

4. FSANZ's assessment raised no public health and safety concerns and concluded that the amendment of the Code in the manner proposed would ensure the Code remains correct and current.

NZFGC COMMENTS

5. NZFGC agrees that the term “*sugars*” is now redundant and so therefore should be removed in Standards 1.1.2, 1.2.7, 1.2.8, 2.6.2 and Schedule 4.
6. NZFGC understands that the intent of P1062 was to ensure that “no added sugar” claims could only be made on foods that meet any of the following criteria:
 - the food is not an added sugar* itself.
 - the food has no sugars added during manufacture.
 - the food has a level of intrinsic sugar(s) that does not exceed 10g/100g for solid food or 7.5g/100mL for liquid food.
 - the food has not had the concentration of hexose monosaccharides and disaccharides increased by hydrolysis of carbohydrates during manufacture at a level above 1.5%.* added sugar is also defined in S4.
7. Therefore NZFGC disagrees with the proposal to “correct a typographical error in section S4—3 of the Food Standards Code”, on the grounds that the proposed change would not meet the intent of P1062.
8. Proposing to replace ‘and’ with ‘or’ in the following text excerpt of S4—3:
 - (b) The food for sale does not contain:
 - (i) an added sugar as an added ingredient; and
 - (ii) more sugars than:

- (A) 10 g/100 g for solid food; or
- (B) 7.5 g/100 mL for liquid food.

introduces significant confusion and increased potential for misleading claims. This is because if 'or' replaces 'and', foods containing added sugar could potentially have up to 10g/100g or 7.5g/100mL added sugar in them and still claim "no added sugar".

9. NZFGC therefore disagrees strongly with this proposed wording change as it would introduce a lack of clarity and a potential loophole, placing food manufacturers in a vulnerable position under Consumer Law regarding misleading claims, even though the Food Standards Code requirements would technically be met.
10. Such a potential loophole could also confuse consumers with the resulting misleading claims.
11. Instead of proceeding as proposed, NZFGC submits that the following draft variation for S4—3 would be preferable, to ensure the intent of P1062 is followed, and to remove the potential to make misleading claims:

Column 1	Column 2	Column 3	Column 4
<i>*Property of food</i>	<i>General claim conditions that must be met</i>	<i>Specific descriptor</i>	<i>Conditions that must be met if using specific descriptor in Column 3</i>
		No added	(a) The food for sale is not an added sugar. (b) The food for sale does not contain an added sugar as an added ingredient. (c) The food for sale does not contain more sugars than: <ul style="list-style-type: none"> (A) 10 g/100 g for solid food; or (B) 7.5 g/100 mL for liquid food. d) 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. e) (etc, as per current wording)

12. NZFGC welcomes a discussion on this issue if this would be valuable to FSANZ. In closing we repeat our concern and opposition to the replacement of 'and' with 'or' in S4, as this

could result in misleading claims being made, leaving both industry and consumers vulnerable.