



Ocean Spray Cranberries, Inc.

[REDACTED]
[REDACTED]

October 6, 2023

Food Standards Australia New Zealand
P.O. Box 5423
KINGSTON ACT 2604
Australia

Submitted via FSANZ Consultation Hub at <https://consultations.foodstandards.gov.au>

Re: P1062 – Defining Added Sugars for Claims

Dear Sir or Madam,

Ocean Spray Cranberries, Inc. (Ocean Spray) appreciates the opportunity to provide comments on Food Standards Australia New Zealand's (FSANZ) proposed definition of added sugars for claims (the "proposal"), which defines "added sugars" and prescribes which beverages and foods are eligible to bear the "no added sugar(s)" claim. While we are supportive of FSANZ's efforts to clarify the "no added sugar(s)" claim definition, the proposal as drafted would likely discourage Australian and New Zealand consumers from receiving the unique, well-documented nutritional benefits of cranberries (which, due to agricultural growing conditions are not available in fresh fruit form in Australia and New Zealand). The proposal would mislead consumers about the healthfulness of certain nutrient-dense products, and unintentionally lead to higher sugar intake due to substitution of low-sugar fruit drinks with 100% juice products (which have a higher sugar load). For these reasons, we encourage FSANZ to consider the below adjustments to the proposal.

Ocean Spray is a farmer-owned agricultural cooperative founded in 1930. Today, Ocean Spray consists of about 700 family farmers, most of which are small, with an average size of 18 acres per farm. Our farmers have helped preserve the farmer family way of life for generations. Ocean Spray is committed to sharing the nutritional benefits of cranberry products with consumers around the world.

The proposal seeks to define "added sugars" in the context of "no added sugar(s)" claims, but as written, could inadvertently increase sugar consumption, in direct contradiction of its primary goal, which is to encourage consumers to limit added sugars intake in order to help address high rates of overweight, obesity, and dental caries. The proposal as written will disadvantage certain fruit

drinks and dried cranberries in the marketplace while unfairly promoting competing products with higher or comparable sugar content. Moreover, the proposal would contradict FSANZ's objective of helping consumers make informed dietary choices by misleading them into thinking that added sugars are more harmful than total sugars, when in fact, the body does not process intrinsic and added sugars differently.^{1, 2}

Certain cranberry products (for example, fruit drinks and dried cranberries) can undoubtedly be part of a healthy dietary pattern, based in part on their lack of saturated fat and low sodium content, as well as meaningful vitamin C or fibre content. In addition, certain cranberry products which currently qualify for the "no added sugar(s)" claim would lose that eligibility upon implementation of the proposal. FSANZ has pointed to no new information suggesting that *added* sugars contribute to greater risks of overweight, obesity, and dental caries compared to *total* sugars – and suddenly withdrawing eligibility from these products will likely cause increased confusion among consumers.

In short, as drafted, the proposal will misinform consumers regarding the healthfulness of certain products. By misleading consumers into believing some fruit products are less nutritious and that their consumption should be discouraged, compared to competing, similar fruit products with the same or higher total sugars, the proposal will encourage the consumption of less healthy alternatives. It will also undermine FSANZ's stated goal of assisting consumers in making informed choices that result in lower added sugars intake.

Our concerns are summarized here and explained in further detail throughout, along with recommended modifications to help address these challenges.

1. **Single-strength juice used as an ingredient should not be considered an added sugar and should be eligible for the "no added sugar(s)" claim.** We agree with FSANZ's determination that 100% juices, including 100% juice blends, should be eligible for the "no added sugar(s)" claim. However single-strength juice, including juice concentrate with enough water to reconstitute to single strength, should not be considered as added sugar when added to foods or beverages. The proposed definition defies decades of scientific research, will inaccurately influence consumer perceptions of healthfulness, and will not help address issues of overweight, obesity, and dental caries. FSANZ's approach to defining added sugars must be science-based and apply equal treatment to juice products with comparable sugar content, as described below.
2. **Dried cranberries containing added sugar for palatability in an amount not exceeding the total sugars of comparable dried fruits should not be considered as added sugars, with a disclaimer.**
Cranberries are naturally tart, with similar sugar content to lemons and limes, and rarely eaten in their raw form; they generally require some sweetening for palatability, bringing their total sugar content in line with other dried fruit products that are naturally sweet. For

¹ Food Labeling: Mandatory Status of Nutrition Labeling and Nutrient Content Revision, Format for Nutrition Label, 58 Fed. Reg. 2079, 2098 (Jan. 6, 1993).

² Food Labeling: Revision of the Nutrition and Supplement Facts Labels, 79 Fed. Reg. 11880, 11903 (Mar. 3, 2014).

the reasons described in greater detail below, we are requesting an exemption for dried cranberries from the “no added sugar(s)” definition.

3. **A two-year implementation period is insufficient.** Ocean Spray joins other members of the food and beverage industry in requesting a minimum three-year transition timeline for compliance with the new definition of added sugars.

This submission further describes how the proposal will exacerbate consumer confusion. In order to ensure consumers are not misled and discouraged from enjoying the well-documented health benefits of cranberry products, Ocean Spray urges FSANZ to adopt modified criteria for certain products, while still achieving the proposal’s stated goals.

1. **Single-strength juice used as an ingredient should not be considered an added sugar and should be eligible for the “no added sugar(s)” claim.**

By FSANZ’s own definition, ‘fruit drinks’ must contain fruit juice or puree in some form, usually combined with water.³ However, under the proposal, a ‘cranberry fruit drink’ containing water, reconstituted cranberry juice (27%), pectin, sucralose, vegetable and fruit concentrate (carrot, cranberry), and natural flavour would not be permitted to make a ‘no added sugar(s)’ claim - despite containing only 1.1 gram of sugar per 100ml which is intrinsic to the juice, and offering a lower sugar option compared to 100% juice (by comparison, 100% apple juice typically contains 11.7g sugar/100ml). FSANZ’s proposal of disallowing a “no added sugar” claim would discourage consumers from selecting this lower-sugar option versus 100% juice, contrary to FSANZ’s objective of reducing sugar intake. Treating fruit-based products, such as single-strength juice, as added sugar even when used as an ingredient, defies decades of scientific research. And doing so will cause increased consumer confusion, and will not help address issues of overweight, obesity, and dental caries.

In order to provide consumers with low sugar and low joule/calorie fruit drink options as part of a healthy diet, Ocean Spray has invested in product innovation and developed a line of “better-for-you” fruit drinks (5-27% juice) with less sugar and fewer calories than 100% juices. For example, products such as light and low sugar fruit drinks would no longer be eligible for the “no added sugar(s)” claim under the proposed definition because the juice content in these examples would be considered added sugar. This is misleading and will confuse consumers, as 100% juice products with more total sugar will be able to use the “no added sugar(s)” claim (see Table 1 below). 100% juice should be eligible for the “no added sugar” claim whether it is in juice form or used as an ingredient. Its combination with other food products, such as water, does not change its composition or the makeup of its intrinsic sugars. FSANZ’s current proposal to prohibit a ‘no added sugar(s)’ claim for these drinks would likely discourage consumers from selecting this lower-sugar option.

Moreover, single-strength juice added as an ingredient to a ready-to-drink product should not be treated as a sweetening ingredient but rather a ‘fruit drink’ (<100% juice), and should not be prohibited from making a “no added sugar(s)” claim for the following reasons. Treating single-strength juice and ready-to-drink products as added sugars will only worsen consumer confusion

³ FSANZ Standard 2.6.2 Non-alcoholic beverages and brewed soft drinks. [Normal \(foodstandards.gov.au\)](http://www.foodstandards.gov.au)

around added sugars labelling and claims. In fact, FSANZ has acknowledged that consumers generally believe “added sugar is added during manufacturing or food preparation, rather than being inherent or naturally occurring in the food,”⁴ and fruit juice labelled as an added sugar will likely cause confusion. Furthermore, fruit drinks with <100% juice will contribute to FSANZ’s overall mission of lowering total sugar intake, providing consumers with a lower-sugar option.

TABLE 1: Nutrient Profile of 100% Juices and Fruit Drinks per 100 mL

Product	Total Sugar Content (g)	Amount considered “added sugar” under proposal (g)	Total Energy (kJ/calories)	Eligible for “No Added Sugar(s)” Claim
100% Apple Juice	10.2	0	200/48	Yes
100% Pineapple Juice	13.6	0	240/57	Yes
Ocean Spray® Light Cranberry Classic™ fruit drink	1.1	1.1	33/8	No
Ocean Spray® Low Sugar Cranberry	0.7	0.7	17/4	No

As illustrated by Table 1, products such as Light Cranberry Classic™ fruit drink and Low Sugar Cranberry fruit drinks have substantially lower sugar content than the 100% juices, in line with the objectives of the proposal. However, based on the proposal’s definition of added sugars, the lower calorie fruit drinks would be ineligible for the “no added sugar(s)” claim, discouraging their consumption, without achieving the desired objective of lowering sugar intake among consumers.

Furthermore, there is a robust body of scientific research regarding the health benefits of both 100% cranberry juice and cranberry fruit drinks (<100% juice). It is well-documented that certain cranberry juice and fruit drinks may help reduce the risk of recurrent urinary tract infections (UTIs),⁵ and in fact, Ocean Spray uses a notified health claim in Australia and New Zealand, which indicates cranberry juice (from concentrate) contributes to the maintenance of urinary tract health by reducing bacterial adhesion.⁶ Under the proposal, products which currently bear the notified health claim would no longer qualify for the “no added sugar(s)” claim, despite the fact that no sugar is added in the production process, and it is the juice in the product that has been shown to contribute to urinary tract health.⁷ If the proposal is implemented as drafted, consumers will be discouraged from consuming these products despite their well-substantiated health benefits.

⁴ FSANZ webinar. 21 September 2023. [PowerPoint Presentation \(foodstandards.gov.au\)](https://www.foodstandards.gov.au/foodstandards/PDF/FSANZ%20webinar%2021%20September%202023.pdf).

⁵ [FDA Announces Qualified Health Claim for Certain Cranberry Products and Urinary Tract Infections | FDA](https://www.fda.gov/food/qualified-health-claims/qualified-health-claim-certain-cranberry-products-and-urinary-tract-infections)

⁶ [Notified food-health relationships to make a health claim \(foodstandards.gov.au\)](https://www.foodstandards.gov.au/foodstandards/PDF/FSANZ%20webinar%2021%20September%202023.pdf)

⁷ Kevin C. Maki et al., Consumption of a cranberry juice beverage lowered the number of clinical urinary tract infection episodes in women with a recent history of urinary tract infection, 103 AMERICAN JOURNAL OF CLINICAL

2. **Dried cranberries containing added sugar for palatability in an amount not exceeding the total sugars of comparable dried fruits should not be considered as added sugars, with a disclaimer.**

As written, the proposal will discourage the consumption of naturally tart fruit products, such as cranberries, despite their unique nutritious benefits. With respect to dried cranberries, the proposal is inconsistent with dietary guidelines,⁸ which encourage consumption of fruits with dried fruit as an option. We believe that the proposal undermines, rather than directly advances, the ministry's stated goals.

Because of the well-documented health benefits of cranberries and the fact that they are generally too tart to be consumed in raw form and unavailable for sale in Australia and New Zealand in raw form, we respectfully request that FSANZ consider an accommodation for nutrient-dense cranberry products, allowing dried cranberries not to be considered as containing added sugars when accompanied by a disclaimer indicating that sweetener has been added for palatability in an amount not exceeding the total sugars of naturally sweet dried fruits. Notably, there is regulatory precedent for this approach. For example, the U.S. Food and Drug Administration (FDA) has recognized that cranberry products require sweetening for palatability and has approved an accommodation — like the one requested here — to provide consumers with clarity and to help level the playing field for cranberry products relative to comparable products with intrinsic sugar. In a 2019 Guidance for Industry Document, the FDA allowed certain cranberry products to include a disclaimer informing consumers that the sugars added to cranberry products are meant to increase their palatability and that the amount of total sugars per serving is at a level that does not exceed the amount of total sugars in a comparable product with no added sugar.⁹ We urge FSANZ to consider a similar accommodation to provide clarity around the comparable healthfulness of certain naturally tart fruit products.

The consumption of cranberry products should not be discouraged. Indeed, cranberries have a long history of providing vital nutrition,¹⁰ and can be part of a healthy diet. For example, robust research indicates that the health-promoting compounds found in dried cranberries deliver wide-ranging, nutritious benefits. Specifically, polyphenols such as those found in dried cranberries have been associated with helping to maintain urinary tract health and contributing to heart health in adults

NUTRITION 1434, 1434 (2016); Williams G., et al., Cranberries for preventing urinary tract infections. Cochrane Database Syst Rev. 2023 Apr 17;4(4):CD001321. doi: 10.1002/14651858.CD001321.pub6.

⁸ The Australian Dietary Guidelines encourage consumption of fruit – including dried fruits – and indicate a preference for those with no added sugar. This likely applies to fruits which are already naturally sweet and therefore do not require additional sweetener. This is not the case with cranberries, however, which are naturally very low in sugar and very tart.

⁹ Food and Drug Administration, Declaration of Added Sugars on Honey, Maple Syrup, Other Single-Ingredient Sugars and Syrups, and Certain Cranberry Products; FDA-2018-D-0075, (College Park, MD 2018).

¹⁰ A fruit native to North America, cranberries were consumed as a staple in various indigenous diets. Native Americans harvested wild cranberries and used them for a variety of purposes including in foods, dyes, and drinks; the fruit was a vital source of nutrition particularly during the winter months. *Making Sense of Cranberries*, EXPLORING CRANBERRIES, <https://www.cranberries.org/exploringcranberries/into/maki> back html; and *About Cranberries*, THE CRANBERRY INST., <https://www.cranberryinstitute.org/about-cranberries>.

and children.¹¹ In fact, dried cranberries can provide up to 25 times more flavonoid polyphenols as other dried fruits (e.g., raisins).¹²

In addition, dried cranberries are shelf stable and cost effective, providing an accessible and important nutritious, health-promoting option for Australians and New Zealanders. This is of particular importance as fresh cranberries are not commercially available in the region due to growing climate requirements. Furthermore, despite their numerous health benefits, cranberries are naturally very tart, with a similar brix-to-acid ratio as lemons and limes, therefore requiring some level of sweetening for palatability to bring these products on par with fruit products that are naturally sweet. Despite a wealth of scientific evidence demonstrating that cranberry products are nutrient-dense and provide numerous health benefits, most cranberry products would be considered as containing “added sugars”, even when they contain comparable amounts of naturally occurring sugars as in other dried fruits, e.g. sultanas.

Dried cranberries also serve an important role in helping consumers meet daily fruit needs. This is significant at a time when research shows that Australians¹³ and New Zealanders¹⁴ are not meeting their daily recommended servings of fruit and vegetables. In fact, many Australians and New Zealanders are not even reaching half of the recommended serves of fruits and vegetables. By adding dried fruits to their diets, Australians and New Zealanders are more likely to meet these recommendations. Indeed, cranberry products, including dried cranberries, are nutrient-dense and contribute to fruit intake.¹⁵ According to the Australian Dietary Guidelines, one serving (30g) of dried cranberries counts as one fruit equivalent and provides beneficial polyphenols and dietary fibre, and can help meet fruit serving guidelines by contributing to fruit intake.¹⁶ Furthermore,

¹¹ Maki KC, Nieman KM, Schild AL, Kaspar KL, Khoo C. The Effect of Cranberry Juice Consumption on the Recurrence of Urinary Tract Infection: Relationship to Baseline Risk Factors. *J Am Coll Nutr.* 2018;37(2):121–6. Greenberg JA, Newmann SJ, Howell AB. Consumption of sweetened dried cranberries versus unsweetened raisins for inhibition of uropathogenic *Escherichia coli* adhesion in human urine: a pilot study. *J Altern Complement Med N Y N.* 2005 Oct;11(5):875–8.

Pourmasoumi, M., et al., The effects of cranberry on cardiovascular metabolic risk factors: a systematic review and meta-analysis (2020), *Clinical Nutrition* 39, 774–788.

Raman G, Avendano EE, Chen S, Wang J, Matson J, Gayer B, et al. Dietary intakes of flavan-3-ols and cardiometabolic health: systematic review and meta-analysis of randomized trials and prospective cohort studies. *Am J Clin Nutr.* 2019 01;110(5):1067–78. Luís Â, Domingues F, Pereira L. Association between berries intake and cardiovascular diseases risk factors: a systematic review with meta-analysis and trial sequential analysis of randomized controlled trials. *Food Funct.* 2018 Feb 21;9(2):740–57.

Wisnuwardani et al., Total Polyphenol Intake Is Inversely Associated with a Pro/Anti-Inflammatory Biomarker Ratio in European Adolescents of the HELENA Study. *The Journal of Nutrition* (2020) 150:1610–8.

Afshar et al., Cranberry juice for the prevention of pediatric urinary tract infection: a randomized controlled trial. *Journal of Urology* (2012) 188: (4 Suppl); Ferrara et al., Cranberry juice for the prevention of recurrent urinary tract infections: a randomized controlled trial in children. *Scandinavian Journal of Urology* (2009) 43(5):369–72.

¹² Dried cranberries (mean = 21.23mg/100g), raisins (0.85mg/100g); Haytowitz DB, et al., USDA Database for the Flavonoid Content of Selected Foods, Release 3.3, 2018: [Ag Data Commons | Providing Central Access to USDA's Open Research Data](#).

¹³ ABS Dietary behaviour Key statistics and data about child and adult consumption of fruit, vegetables, sugar sweetened, and diet drinks. Released. 17/6/2022.

<https://www.abs.gov.au/statistics/health/health-conditions-and-risks/dietarybehaviour/latest-release>.

¹⁴ MINISTRY OF HEALTH GUIDELINES.NZ. <https://www.5aday.co.nz/5plus-a-day/ministry-of-health-guidelines>.

¹⁵ [australian-dietary-guidelines.pdf \(health.gov.au\)](#).

¹⁶ *Id.*

consuming at least two serves of fruit per day (150g per serve) is recommended for adults (amounts recommended for children and adolescents depend on age and sex, per Tables 2.5 and 2.6 in the guidelines).¹⁷ The proposed added sugars definition will only serve to discourage the consumption of nutrient-dense dried cranberries, in direct contradiction of these guidelines.

Modestly sweetening dried cranberries in order to bring them to the same level of total sugars as other dried fruit types that are naturally sweet should not define them as containing “added sugars”, as these products (even after sweetening) have similar or lower total sugar content as other dried fruits that do not require added sugar, as demonstrated in Table 2 below.

TABLE 2: Nutrient Profile of Dried Fruits Per 30g Serving

Type	Energy (kJ/calories) (kcal)	Total Sugar (g)	Sugar added for palatability (g)	Fibre (g)	Qualify to bear “no added sugar(s)” claim
Craisins® Original Dried Cranberries	408/98	21.8	20	1.9	NO
Reduced Sugar Sweetened Dried Cranberries (Craisins® 50% Less Sugar)	314/75	9.0	6	7.5	NO
Sultanas, unsweetened ¹⁸	401/96	19.1	0	1.8	YES
Raisins, unsweetened ¹⁹	384/92	20.7	0	1.5	YES

As illustrated by Table 2, dried fruit such as sultanas and raisins have similar calories, total sugar, and fibre content compared to sweetened dried cranberries. Notably, the total sugars of these products are essentially the same (19.1-21.8g sugar). And in the case of reduced sugar dried cranberries, the total sugars are significantly lower than that of sultanas and raisins. In fact, reduced sugar dried cranberries have *less sugar* and *more fibre* compared to other dried fruits, e.g., sultanas and raisins. Further, dried cranberries are comparable both in calories and in total sugars relative to competing products. This is significant because a primary consideration in dietary recommendations around added sugars is to ensure that diets are sufficient in positive nutrients while not exceeding calorie limits. As demonstrated by Table 2, consumption of sweetened dried cranberries would contribute to fruit intake *without* increasing calorie intake compared to similar options.

¹⁷ *Id.*

¹⁸ [NUTRITION - Dried Fruits Australia](#)

¹⁹ *Id.*

We are concerned that the proposal creates a functionally meaningless distinction between added and naturally occurring sugars, when other prominent regulatory bodies, such as the U.S. FDA and U.S. Department of Agriculture (USDA), have acknowledged that the human body does not distinguish between added and intrinsic sugars and processes them in the same way.²⁰ In short, from a nutrition standpoint, the human body treats all sugars the same. Yet, the proposal will mislead consumers into believing they are meaningfully different.

By allowing the sweetener in dried cranberries to *not be considered as added sugars* (along with a disclaimer indicating that sweetener has been added for palatability in an amount not exceeding the total sugars of naturally sweet, dried fruits), FSANZ can improve consumer understanding and clarity around naturally tart fruits in the marketplace with consideration of their total sugars and unique health benefits. Doing so will not undermine FSANZ's stated objective of promoting a healthy dietary pattern, with the ultimate goal of reducing total sugar consumption, as well as rates of overweight, obesity, and dental caries.

3. **A two-year implementation period is insufficient.** Ocean Spray joins other members of the food and beverage industry in requesting a minimum of a three-year transition timeline for compliance with the new definition of added sugars, as well as a timeline that is harmonized with that of P1058 implementation to minimize added costs and disruption to industry.

Conclusion

As currently drafted, the FSANZ proposal redefining “added sugars” and requirements for use of the “no added sugar(s)” claim would have the effect of creating confusion around certain nutrient-dense products which require some sweetening for palatability, and discouraging consumption of those products as well as lower-sugar fruit drinks, which fit within a healthy dietary pattern, therefore inadvertently leading to increased sugar consumption in certain cases.

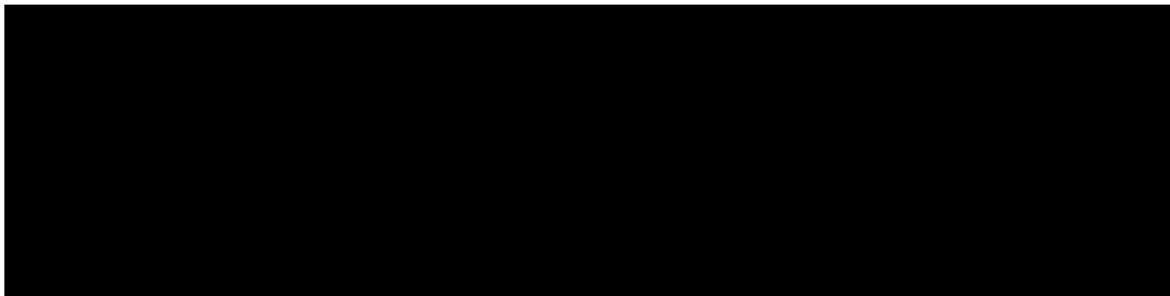
Ocean Spray strongly recommends that FSANZ modify the proposal as follows:

1. Single-strength juice used as an ingredient should not be considered an added sugar and should be eligible for the “no added sugar(s)” claim.
2. Dried cranberries containing added sugar for palatability in an amount not exceeding the total sugars of comparable dried fruits should not be considered as added sugars, with a disclaimer.
3. Provide a minimum three-year transition timeline for compliance with the new definition of added sugars, as well as a timeline that is harmonized with that of P1058 implementation to minimize added costs and disruption to industry.

²⁰ 79 Fed. Reg. 11880, 11903 (March 3, 2014): [Federal Register :: Food Labeling: Revision of the Nutrition and Supplement Facts Labels](#); USDA and FDA, *Dietary Guidelines for Americans*, 27 (2010).

Ocean Spray greatly appreciates FSANZ's consideration of these comments and recommended changes to the proposal.

Sincerely,



Response ID ANON-JN9Z-F83E-1

Submitted to P1062 - Defining added sugars for claims
Submitted on 2023-10-08 00:06:42

Complete your submission

Your details

What is your name?

Contact person:

[REDACTED]

What is your email address?

Email address:

[REDACTED]

What is your telephone number?

Telephone:

[REDACTED]

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

Food industry

If other, please specify:

What is the name of your organisation?

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

Ocean Spray Cranberries, Inc

What is your position title?

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

[REDACTED]

Are you the contact person for your organisation?

Yes

If you are not the contact person for your organisation, please provide an alternative contact and details. If not applicable, please leave blank.

Contact person's name:

Email address:

Telephone:

Position title:

Have you read the P1062 – Defining added sugars for claims call for submission paper?

Yes

Confidential information

All submissions will be published, including redacted versions of confidential submissions. We will not publish material that we accept as confidential. Does your submission contain confidential information?

No. My submission does not contain confidential information.

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

1 FSANZ proposes to continue to set 'no added sugar(s)' claim conditions based on the addition of ingredients to foods (see section 5.2 of the Call for submissions document).

Do you have any comments on this approach?:

Ocean Spray supports industry's continued ability to make nutrient content claims on food and drinks in relation to sugar such as 'no added sugar' and 'unsweetened'; however, we have concerns with some of the proposed changes and definitions.

We share the concerns of the broader food and beverage industry regarding the proposed definition of the "no added sugar" claim, as the inclusion and exclusion of ingredients are wholly adopted in P1058 without due consideration of the impact they may have if added sugar were to be included as a separate itemization in the Nutritional Information Panel (NIP).

Additionally, we do not support the condition that fruit juices, when used at single strength and added as a food ingredient and/or in a product for sale as a 'Fruit Drink', do not qualify for a "no added sugar(s)" claim. Please see items 2, 5, 6 below.

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)?:

Ocean Spray generally supports FSANZ's approach to defining 'added sugars' for the purpose of 'no added sugar(s)' claim conditions as per the list above, with the exception of the following.

We fully support FSANZ's proposal that 100% juices, including juice blends and juices from concentrate, when for sale as a fruit juice, can display a "no added sugar(s)" claim. However, we do not support FSANZ's proposal that concentrated juices of fruits - when added to foods or beverages with free water to reconstitute the juice to single strength - should be considered "added sugar". Accordingly, we strongly encourage FSANZ to continue to allow single strength juice ingredients to make a "no added sugar(s)" claim (whether it's from concentrate, not-from-concentrate, puree, concentrated puree, or paste).

Where there is insufficient free water and sugar is above single strength, only the amount of sugar that is not reconstituted to single strength should be counted as 'added sugar.'

Additionally, we request an exemption for fruit juice concentrates used for an alternative technical function, e.g., elderberry concentrate as a colour.

When using this type of ingredient for a purpose such as colour, the concentrates should be eligible for a "no added sugar(s)" claim. Alternative function ingredients are typically used at very small concentrations, therefore add negligible nutrition and added sugar.

Further supporting the assertions above, juice is added for its nutritional and flavour contributions (as per the Australian Guide to Healthy Eating Five Food Groups), and to support characterising ingredients in descriptors - it is not added for the sole purpose of sweetening. If sweetening were the intended purpose, the industry would use water, sugar and flavours at lower cost.

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?:

Ocean Spray does not support FSANZ's proposed approach to capturing D-tagatose in the definition of added sugars.

We recommend that low-energy sugars be excluded from 'added sugars' given their low-energy contribution to the diet, and the fact that they have not been shown to contribute to tooth decay, or markedly elevated blood sugar levels.

According to the U.S. Food and Drug Administration (FDA) GRAS Notice documentation (GRAS Notices GRN No. 78 D-Tagatose):

D-tagatose has a reduced physiological energy value, is non-cariogenic, exerts a prebiotic effect, and is not associated with a glycemic response.

Thus, D-tagatose is not like regular sugar and adding it gram per gram as an added sugar can be misleading as it does not provide as many 'empty calories' as other added mono and disaccharides, etc.

However, Ocean Spray does agree that foods containing low energy sugars (mono- and disaccharides) listed in subsection S11—2(3) of Schedule 11 should not be permitted to display 'unsweetened' claims as these low-energy sweeteners are used primarily for the purpose of providing sweetness.

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?:

Ocean Spray strongly urges FSANZ to reconsider the status of fruit products in relation to 'no added sugar(s)' claims.

Ocean Spray does not support FSANZ's proposal 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). We request the following changes:

1) Add cranberry to the list of exempt fruit products (e.g., lemon or lime):

There are very few fruits with intrinsic sugars of less than five percent and an average Brix-to-acid ratio of six or less. Fruits meeting these criteria include lemons, limes, cranberries, and tart cherries. These fruits are used primarily for flavour and/or nutritional purposes and are not added for sweetening purposes due to their inherently tart taste and low sugar content. Furthermore, cranberries contain unique, beneficial nutritional compounds (such as type-A proanthocyanidin polyphenols) not widely available in the general AU/NZ diet via other food sources, and due to their unique growing requirements (a prolonged cold climate) are not available for sale as fresh fruit in AU/NZ. Thus, dried cranberries and cranberry fruit drinks are the primary source for Australians and New Zealanders to obtain these unique cranberry nutritional compounds.

2) Dried fruit, fruit juice, frozen fruit, fruit juice powder, fruit powder, fruit pulp, fruit puree and concentrated fruit puree should NOT be considered “added sugar” when used as an ingredient in a food or beverage:

- a. Dried Fruit should not be counted as an added sugar as it is a core, whole food. If dried fruit, as an ingredient, is considered as “added sugar”, this will cause consumer confusion since dried fruit is typically added to products to enhance flavor and texture, not to add sugar. This also undermines the nutrition profile of dried fruit, which contains fibre, vitamins, minerals and/or other bioactive compounds. Additionally, dried fruit is shelf stable and cost effective, providing an accessible and important nutritious option for Australians and New Zealanders. Additionally, dried cranberries containing added sugar for palatability in an amount not exceeding the total sugars of comparable dried fruits should not be considered as added sugars, with a disclaimer. Please see attached document for additional information.
- b. Single-strength juices/nectar of fruits when added to food or beverages should not be considered “added sugar”. Single-strength juice used as an ingredient should not be considered an added sugar and should be eligible for “no added sugar(s)” claim. Please see attached document for additional information.
- c. Concentrated juices of fruits when added to food or beverages with free water to reconstitute the juice to single strength should not be considered “added sugar”. 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.
- d. Fruit Puree is of itself single strength unless ‘concentrated’ is listed in its name. According to Codex, 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, milling the edible part of the whole or peeled fruit without removing the juice. It represents a step along the continuum of whole to chopped/sliced to mash to purée. Whole or chopped fruit are not considered “added sugar.”
- e. Concentrated purées of fruits with free water to reconstitute the purée to single strength would not be considered “added sugar”. Where there is insufficient free water and sugar is above single strength, this would be counted as added sugar.

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?:

Ocean Spray supports some elements of FSANZ’s proposed approach, including that a fruit product that is the food for sale (e.g., fruit juice) should be permitted to make a ‘no added sugar(s)’ claim.

We support the condition that when the food is sold as a singular fruit (e.g., cranberry juice) or a blend of different fruits (e.g., blend of cranberry, apple and grape fruit juices), that a “no added sugar(s)” claim can be made.

However, we disagree that a blend or combination of different fruit products (e.g., fruit juice and fruit purée) should not be permitted to make the ‘no added sugars’ claim. The existing regulation (Standard 2.6.2-2; see below) allows for ‘no added sugar’ claims on such drinks, providing certain conditions are met:

In 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) v) comminuted fruit;
- (vi) (vi) orange peel extract; and

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

Additionally, FSANZ’s proposal would prohibit a ‘no added sugar’ claim when juice is added as a single-strength juice ingredient (with no added sugar) to a drink, thus making it a ‘fruit drink’. A ‘fruit drink’ is essentially a diluted form of fruit juice. The inclusion of fruit juice (or other types of fruit listed above, reconstituted to single-strength) is not for sweetening, but rather to classify the beverage as a ‘Fruit Drink.’ Furthermore, a “fruit drink” with no added sugar can offer a lower-sugar option for consumers compared to 100% juice, for example:

A ‘Cranberry Fruit Drink’ containing water, reconstituted cranberry juice (27%), pectin, sucralose, vegetable and fruit concentrate (carrot, cranberry), natural flavour - despite containing only 1.1 gram sugar per 100ml, no added sugar, and offering a lower sugar option compared to 100% juice (for example, 100% apple juice typically contains 11.7g sugar/100ml) – would be prohibited from making a ‘no added sugar claim’ while 100% apple juice would be permitted to make a ‘no added sugar’ claim.

FSANZ’s current proposal to prohibit a ‘no added sugar’ claim on “fruit drinks” with no added sugar like the one above would likely discourage consumers from selecting a lower-sugar fruit-based drink option.

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?:

Ocean Spray supports the FSANZ approach described in this question.

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?:

Ocean Spray supports the FSANZ approach that the existing condition be maintained for a food bearing an “unsweetened” claim that it also meet the conditions for a “no added sugar” claim.

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?:

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

The food industry has and continues to face multiple potential label changes within the next 1-3 years, from wide-impacting government requirements such as Plain English Allergen Labelling (PEAL), Australian Dietary Guidelines, Container Deposit Schemes (CDS), and Health Star Rating. Ocean Spray joins other members of the food and beverage industry in requesting a minimum three-year transition timeline for compliance with the new definition of added sugars.

Data and evidence

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

No

If yes, please upload your file here.:

No file uploaded

12 Do you have any evidence or are you aware of published literature on consumer understanding of and responses to 'no added sugar(s)' or 'unsweetened' claims on food products (see evidence used for this proposal at section 3.2 of the Call for submissions report and Supporting Document 1)?

No

If yes, please upload your file here.:

No file uploaded

13 Do you have any data or know of any published data on the costs of labelling changes per stock keeping unit or package type (see data used for this proposal at Attachment E to the Call for submissions document)?

No

If yes, please upload your file here:

No file uploaded

Additional comments

Comments and other input

Additional comments and input:

Please see attached document.

Please upload additional files here.:

FINAL FSANZ Added Sugar Comments. Ocean Spray. Oct 2023.pdf was uploaded

Feedback

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

Satisfied

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

No

If yes, please provide details.: