

# **P1049: Carbohydrate and sugar claims on alcoholic beverages**

Food Standards Australia New Zealand

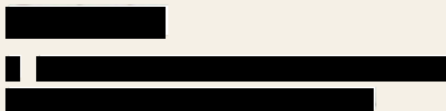
**Submission 4 September 2023**



# Executive Summary

**Food for Health Alliance strongly opposes FSANZ's proposal to formally expand the nutrition content claims permitted on alcohol products and to expressly permit claims about sugar content as well as carbohydrate.** In our view, the proposal is not consistent with the Food Ministers' concerns, is detrimental to public health, is not consistent with FSANZ's objectives when developing or amending food standards and is not supported by the available evidence and policy context.

We ask FSANZ to revise its position and recommend option 3, the prohibition of nutrition content claims about sugar and carbohydrates on alcohol products. To support this we recommend FSANZ revise its evidence review and its cost-benefit analysis.



## About us

Food for Health Alliance is a leading policy and advocacy voice working to improve diets and prevent overweight and obesity in Australia. We advocate to governments across Australia for changes to laws and policies to improve our food environment.

## Acknowledgement of Country

Food for Health Alliance would like to acknowledge the traditional custodians of the land on which we live and work. We would also like to pay respect to the elders past and present and extend that respect to all other Aboriginal people.

Food for Health Alliance is a partnership between Cancer Council Victoria, VicHealth, and the Global Centre for Preventive Health and Nutrition at Deakin University; a World Health Organization (WHO) Collaborating Centre for Obesity Prevention.



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# Overview of reasons

**Food for Health Alliance strongly opposes FSANZ's proposal to formally expand the nutrition content claims permitted on alcohol products and to expressly permit claims about sugar content as well as carbohydrate.**

An overview of our reasons is:

1. **The proposal is not focused on the issue that Food Ministers asked FSANZ to consider:** whether the claims are misleading consumers and/or promoting alcohol as a healthier choice for consumers, when public health advice is to limit alcohol intake.
2. **The proposal is not consistent with the evidence** – all available evidence supports a conclusion that sugar and carbohydrate claims on alcohol products are likely to mislead consumers and promote some alcohol products as healthier choices.
  - a. We strongly disagree with FSANZ's assessment of the evidence on how sugar and carbohydrate claims influence consumer perceptions of alcohol products – the evidence it has included only supports a conclusion that the claims should not be permitted.
  - b. We recommend FSANZ consider additional evidence not considered as part of this evidence review, including: evidence on the impact of claims on consumer perception and choice for food and non-alcoholic drinks, results from Cancer Council's 2022 Shape of Australia report, and results from Alcohol Change Australia's 2023 survey.
  - c. Lack of evidence that claims influence consumers to drink more alcohol should not lead to a decision to allow them.
  - d. The prevalence of these claims in the market and their 'consumer value' should not be a reason to permit them – rather this supports the view that the claims are influential and are more likely to mislead consumers.
3. **FSANZ's analysis prioritises sugar and nutrition over alcohol consumption and harms.** We recommend it be reconsidered with a primary focus on encouraging reduced alcohol consumption and on ensuring consumer understanding of alcohol products and alcohol content is not undermined.
4. **Sugar and carbohydrate claims on alcohol products are marketing tools and do not enable consumers to make informed choices in accordance with dietary guidelines.**
5. This proposal is **inconsistent with the policy guideline** on food labelling to support consumers to make informed healthy food choices.
6. FSANZ's approach to this proposal is **inconsistent with its approach to P1059 on energy labelling** on alcohol products.

7. **The cost benefit analysis is narrowly focused on costs to industry** and should be expanded to include public health and broader costs associated with alcohol consumption.
8. We do not agree that this proposal is consistent with FSANZ's three objectives in setting or varying food regulatory measures under s18(1) of the FSANZ Act.

## Submission

Food for Health Alliance strongly opposes FSANZ's proposal to formally expand the nutrition content claims permitted on alcohol products and to expressly permit claims about sugar content as well as carbohydrate.

This proposal is extremely concerning from a public health perspective because these claims (things like 'low sugar', 'no sugar', 'low carb' etc) create a 'health halo' and present some alcohol products as healthy or 'better for you' choices, despite public health advice to limit alcohol to improve diets and reduce alcohol harm.

Food for Health Alliance is concerned about the analysis that underpins FSANZ's proposal and the outcome it has reached. In our view, the proposal is not consistent with the Food Ministers' concerns, is detrimental to public health, is not consistent with FSANZ's objectives when developing or amending food standards and is not supported by the available evidence and policy context.

We ask FSANZ to revise its position and recommend option 3, the prohibition of nutrition content claims about sugar and carbohydrates on alcohol products. To support this we recommend FSANZ revise its evidence review and its cost-benefit analysis.

We outline our reasons below.

**The proposal is not focused on the issues that Food Ministers asked FSANZ to consider – whether the claims are misleading consumers and/or promoting alcohol as a healthier choice for consumers, when public health advice is to limit alcohol intake.**

FSANZ is considering this issue because in 2017 Food Ministers (at that time the Ministerial Forum on Food Regulation) asked them to, as they were concerned about the increasing number of alcohol products claiming they are '% sugar free' and that these claims are misleading, and that alcohol is being promoted as a healthier choice for consumers when public health advice is to limit alcohol intake.

In 2018 the Ministerial Forum on Food Regulation noted FSANZ's technical assessment, and the Communique from its June 2018 meeting says that '*FSANZ has agreed to raise a proposal to clarify Standard 1.2.7 of the Australia New Zealand Food Standards Code in line with the original policy intent that prohibits claims on alcoholic beverages in relation to sugar and carbohydrate*'.

In our view, this proposal is not consistent with the Food Ministers' request in 2017 and with the Communique's description of the intention of the proposal as set out in June 2018. To ensure this proposal is focused on the issue that Food Ministers asked FSANZ to consider, it should be revised to:

- › focus primarily on whether the claims are misleading consumers, and/or are promoting alcohol as a healthier choice. This means that the effect of the claims on consumption of alcohol is not a determinative factor and a lack of strong evidence to show increased consumption should not be used to support a decision to permit them. Based on the available evidence, it is clear that sugar and carbohydrate claims on alcohol products promote alcohol as a healthier choice for consumers against public health advice to limit alcohol intake, and that this is likely to be misleading. Although some of this evidence is of low quality, all available evidence supports that conclusion – see our analysis below for more detail.



- › in focusing on whether the claims are misleading and promote alcohol as a healthier choice, FSANZ should primarily consider this in the context of alcohol content/consumption, not sugar content/consumption. Encouraging reduced alcohol consumption must be the primary goal of alcohol labelling, from both a diet perspective and an alcohol harm perspective, and certainly when considering public health and safety as a whole. Supporting that is consumer understanding of the composition of alcohol products, and building understanding that alcohol content is the key contributor to energy content and to adverse health effects.

All assessments should then be made by FSANZ with this lens, including consideration of whether the claims support informed choices in line with the dietary guidelines, and whether the claims are supported by the policy guideline. This should include assessment and consideration of how this proposal interacts with the broader Australian and international policy context. Relevant documents include the National Alcohol Strategy, National Obesity Strategy and National Preventive Health Strategy – these were all considered as part of the assessment of proposal on energy labelling on alcohol. We understand that it is not FSANZ's role to assess the safety of alcohol, but all food standards that apply to alcohol must be assessed within the context of alcohol's contribution to the diet as a discretionary food, and within the context of broader alcohol harms, including its contribution to the burden of disease and social costs of alcohol consumption.

**The proposal is not consistent with the evidence – all available evidence supports a conclusion that sugar and carbohydrate claims on alcohol products are likely to mislead consumers and promote some alcohol products as healthier choices.**

We are concerned about how FSANZ has assessed the evidence and how it has used the evidence to support its conclusions, and we recommend FSANZ consider additional evidence, as follows:

- We strongly disagree with FSANZ's assessment of the evidence on how sugar and carbohydrate claims influence consumer perceptions of alcohol products – the evidence it has included only supports a conclusion that the claims should not be permitted.**

FSANZ's analysis found that all available evidence, despite varying quality, supported the view that sugar and carbohydrate claims on alcohol may cause consumers to have inaccurate assumptions about alcohol products. FSANZ said that because most studies were low quality, and because the single high-quality study did not include nutrition information as part of its design, it does not have a high level of confidence in this conclusion. We strongly disagree with FSANZ's conclusion based on this evidence. In our view, the available evidence only supports the conclusion that sugar and carbohydrate claims on alcohol products should not be permitted.

### **Assessment of high quality evidence**

There is high quality evidence (Cao et al, 2022) that sugar claims on ciders and RTDs cause young female adults to mistakenly perceive those drinks as lower in alcohol, despite alcohol content being clearly displayed on the packaging. This alone should be sufficient to find that the claims are misleading consumers and promoting alcohol products as healthier options – as

alcohol content is the most important element when considering the health and dietary impact of an alcohol product.

The same high quality study also found that sugar claims caused consumers to think the products were significantly healthier, more suitable as part of a healthy diet, better for weight management, less harmful to health, lower in energy, as well as lower in sugar, compared to products without claims. FSANZ said that it is not clear whether those claims were misleading consumers as the products with claims may be lower in energy, better for weight management etc than products without the claims. While this may be true in some cases, there is no clear evidence to support this conclusion. It does suggest, however, that those claims are effective in promoting those products to consumers who may be interested in those attributes.

We note FSANZ's view that this study is not generalisable to real world conditions as it did not include a nutrition information panel in its design, and that inclusion of that information (as would be required for alcohol products carrying a nutrition content claim) may change consumer interpretation of the products. In discussing the evidence, FSANZ said *'However, the current requirements to provide a statement of alcohol content, and a NIP when a nutrition content claim is made, on alcoholic beverages provides information to assist consumers make informed choices and reduces the likelihood of consumers being misled about the alcohol and energy content of alcoholic beverages respectively.'* That conclusion is not supported by the evidence. While we agree that the products with claims would carry a NIP in practice, based on available evidence it is unlikely the NIP would significantly change consumer perception. There is evidence to show that the presence of nutrition content claims decrease consumers' attention to the NIP.<sup>1</sup> This study also clearly showed that alcohol content labelling did not stop consumers being misled about the relative alcohol content of products with claims on them. We strongly disagree with FSANZ's decision to discount the findings of this study because of the lack of a NIP.

We are also concerned that the analysis for this proposal seems to position nutrition content considerations, including sugar and energy content, and issues related to weight management, as more important than alcohol content and understanding of alcohol products. This study clearly showed the claims caused consumers to be misled about the alcohol content of the products – that is extremely concerning from a public health perspective and should be sufficient to prohibit the claims.

### Assessment of other lower quality evidence

We acknowledge FSANZ's concerns that the three remaining studies that looked at how consumer perceptions of alcohol products were affected by claims were of low quality and that, because of this, those findings are not conclusive. We agree that peer reviewed, published studies should be given more importance than lower quality studies.

We do consider, however, that these additional research pieces, when taken together, further strengthen the view on the impact of claims given the lack of extensive high quality evidence. In this case, all of the lower quality research supports the findings of the high quality study.

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<sup>1</sup> Ilkonen I, Sotgiu F, Aydinli A, Verlegh PWJ. Consumer effects of front-of-package nutrition labeling: an interdisciplinary meta-analysis. *Journal of the Academy of Marketing Science*. 2020;48(3):360-83.



- b. We recommend FSANZ consider additional evidence not part of this evidence review, including: evidence on the impact of claims on consumer perception and choice for food and non-alcoholic drinks, results from Cancer Council's 2022 Shape of Australia report, and results from Alcohol Change Australia's 2023 survey.**

We ask FSANZ to consider as part of its final decision the preliminary results of two surveys that asked Australians about sugar and carbohydrate claims.

1. Cancer Council Victoria's Shape of Australia 2022 Survey, study details and results provided to FSANZ by Cancer Council Australia.

As Cancer Council Australia notes in its submission, this research shows that 'no added sugar' and 'low carb' claims indicate to a large proportion of the population that certain types of alcohol products are healthier than others and are more influential than lower alcohol claims. This supports the conclusion that sugar and alcohol claims on alcohol products create a health halo.

2. Alcohol Change Australia's August 2023 survey on carbohydrate and sugar claims on alcohol products, study details and results provided to FSANZ by Alcohol Change Australia.

This research shows that carbohydrate and sugar claims on alcohol products create a health halo and mislead Australians about the healthiness of alcohol. The study found that around one-third of people rated the cider products with low carb and low sugar claims as healthier than the identical product with no claim. The study also found that the proportion of people who understood that alcohol is unhealthy fell from 48% to 40% when a low carb claim was added, and to 37% when a low sugar claim was added.

Based on the lack of significant high quality evidence on the impact of claims on consumer perception of alcohol, we also ask FSANZ to consider the evidence on claims on food and non-alcoholic beverages. This evidence shows that:

- › Nutrition content claims on food labels reduces consumers' ability to correctly identify unhealthy foods, effectively undermining consumer understanding of the NIP<sup>2</sup>
- › Nutrition content claims decrease consumers' attention to the NIP<sup>3</sup>
- › Consumers react positively to nutrition content claims, driving sales of unhealthy foods that have claims on their labels<sup>4</sup>
- › Consumers are more likely to choose foods carrying claims than those that do not<sup>5</sup>

This evidence further supports the view that nutrition content claims influence consumers, are likely to promote sales of unhealthy products, motivate consumer choice and are not mitigated by consumer use of the nutrition information panel. We note this evidence also suggests that allowing sugar and carbohydrate claims on alcohol products may undermine the effect of

<sup>2</sup> Prates SMS, Reis IA, Rojas CFU, Spinillo CG, Anastácio LR. Influence of nutrition claims on different models of front-of-package nutritional labeling in supposedly healthy foods: Impact on the understanding of nutritional information, healthfulness perception, and purchase intention of Brazilian consumers. *Front Nutr*. 2022;9:921065.

<sup>3</sup> Ikonen I, Sotgiu F, Aydinli A, Verlegh PWJ. Consumer effects of front-of-package nutrition labeling: an interdisciplinary meta-analysis. *Journal of the Academy of Marketing Science*. 2020;48(3):360-83.

<sup>4</sup> Ikonen I, Sotgiu F, Aydinli A, Verlegh PWJ. Consumer effects of front-of-package nutrition labeling: an interdisciplinary meta-analysis. *Journal of the Academy of Marketing Science*. 2020;48(3):360-83.

<sup>5</sup> Kaur A, Scarborough P, Rayner M. A systematic review, and meta-analyses, of the impact of health-related claims on dietary choices. *Int J Behav Nutr Phys Act*. 2017;14(1):93; Oostenbach LH, Slits E, Robinson E, Sacks G. Systematic review of the impact of nutrition claims related to fat, sugar and energy content on food choices and energy intake. *BMC Public Health*. 2019;19(1):1296.

mandatory energy labelling on the back of alcoholic products. We ask FSANZ to consider that as part of its evidence review.

**c. Lack of evidence that claims influence consumers to drink more alcohol should not lead to a decision to allow them**

This proposal appears to rely significantly on a lack of clear evidence that sugar and carbohydrate claims are causing consumers to drink more alcohol, as well as the findings of a high quality study that found claims did not cause an increase in the amount of alcohol consumers said they intended to consume. FSANZ also notes overall trends in declining alcohol consumption.

We strongly disagree with this approach. The effect of the claims on alcohol consumption, and patterns of alcohol consumption generally, are not relevant to the central question that FSANZ should be focused on – whether the claims are misleading and/or whether they promote some alcohol products as a healthier choice despite public health advice to limit consumption. Requiring increased consumption as a determinative factor creates a concerning high threshold of evidence and is not what FSANZ was asked to consider by the Food Ministers.

We note FSANZ's reliance on a high quality study showing consumers did not report increased intentions to drink alcohol when they saw products with sugar and carbohydrate claims, compared to products without. This is only an indirect measure, and may not correspond to actual behaviour, as FSANZ notes. FSANZ also said (p18) that the study found '*...the presence of a claim may make consumers less likely to exercise, and less likely to change their diet, in order to compensate for the energy from alcoholic beverages.*' These behaviour changes are not recommended, but do point to a consumer belief that alcohol products with claim have less impact on energy intake than those without.

We also highlight new research showing that the proportion of Australians who drink alcohol has increased in Australia since it was last taken in the 12 months to March 2020, pre-pandemic.<sup>6</sup> In particular, the research indicates RTDs have become significantly more popular, consumed by over 20% of Australian adults in a four week period, an increase of 10% from the previous results. This, together with research showing that over 30% of RTDs display a sugar claim,<sup>7</sup> is extremely concerning and further supports the removal of these claims.

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<sup>6</sup> See Roy Morgan's Alcohol Consumption Report, overview available at <https://www.roymorgan.com/findings/9153-alcohol-consumption-march-2023>.

<sup>7</sup> See under review manuscript provided to FSANZ by the George Institute of Global Health - Type and prevalence of nutrition-related claims on alcoholic ready-to-drink beverages.

- d. **The prevalence of these claims in the market and their 'consumer value' should not be a reason to permit them – rather this supports the view that the claims are influential and are more likely to mislead consumers.**

The focus of this proposal should be on whether these claims are misleading consumers, and whether they are promoting alcohol products as a healthier choice for consumers. In the proposal FSANZ discussed the prevalence of sugar and carbohydrate claims on alcohol in the market, the increased popularity and growth of 'healthier' alcohol products, and the high consumer value of these claims. These factors do not support a decision to allow these claims.

On the contrary, this evidence strengthens the view that these claims are effective (or manufacturers would be unlikely to use them), influential and therefore even more likely to be misleading. This is especially the case when combined with FSANZ's finding that consumers do not understand the composition of alcohol, overestimating the sugar content and not knowing that most energy in alcohol comes from alcohol itself.

For example, in the proposal document, FSANZ says (p14) '*Hard seltzers have gained popularity since they were introduced into the Australian and New Zealand markets in 2019 (DrinksTrade, 2019; New Zealand Story, 2022) primarily due to their lower carbohydrate and lower sugar content than many other alcoholic beverages. Generally hard seltzers are also lower in energy despite their alcohol content being comparable to full strength beer.*' This statement implies that consumers are purchasing these drinks because of the claims on the labels about sugar and carbohydrate content, despite alcohol content comparable to full strength beer, and supports the conclusion that the claims are promoting the hard seltzers as healthier options, despite not having reduced alcohol content, and with only a minimal energy reduction (29kJ per 100ml according to the FSANZ analysis).

We are also concerned about FSANZ's finding that evidence generally shows consumers value sugar claims (and sugar information more broadly) on alcohol products for these reasons:

- › In some cases this 'value' seems to be assessed by reference to whether consumers were more likely to choose a product with a particular claim. This is about the effect of these claims on consumer purchase or selection decisions and supports a view that these claims are influential.
- › FSANZ has not assessed whether any studies are affected by conflict of interest or potential bias through their funding sources. We recommend FSANZ conduct this analysis for all evidence considered in its review.
- › All studies used by FSANZ to conclude that consumers value these claims were of low or medium quality. This means they should not be given equal weight to the single high quality study that clearly showed that the claims promote alcohol as a healthier choice and mislead consumers.
- › The Colmar Brunton report containing two 'studies' assessed whether participants believed an advertisement for sugar free beer should be allowed to be shown based on the Alcohol Beverage Advertising Code, and not the participants' 'value' of the claim. This study should not be included in an evidence review about consumer value in claims on packaging as it was not designed to assess this.



**FSANZ's analysis prioritises sugar and nutrition over alcohol consumption and harms. We recommend it be reconsidered with a primary focus on encouraging reduced alcohol consumption and on ensuring consumer understanding of alcohol products and alcohol content is not undermined.**

The most important consideration when it comes to labelling and regulation of alcohol products, from both a diet and alcohol harm perspective, is encouraging reduced alcohol consumption. Supporting that is consumer understanding of the composition of alcohol products, and building understanding that it is alcohol content that is of most importance to health and diet. All alcohol labelling reforms should be considered with this as the primary focus.

This proposal appears to give primary focus to sugar and the role of sugar claims on alcohol products in enabling consumers to reduce sugar consumption. In our view, this is not the right approach. Sugar content of alcohol products is not of primary significance from a health perspective. This is a position that FSANZ itself highlighted in its proposal on energy labelling, where it decided not to require all alcohol products to include sugar content along with energy content on the back of pack, describing nutrition information other than energy as of 'minimal significance'. We support that approach.

**Sugar and carbohydrate claims on alcohol products are marketing tools and do not enable consumers to make informed choices in accordance with the dietary guidelines.**

FSANZ emphasises the role of sugar and carbohydrate claims on alcohol in enabling consumers to make informed choices in accordance with dietary guidelines. We strongly disagree with this analysis. These claims do not support informed choices – they are simply marketing tools used where they are likely to promote a product and motivate a consumer to buy it. Consumers are only informed by claims where the manufacturer thinks it would encourage purchase or consumption. On the contrary, evidence shows that claims are likely to cause consumers to have inaccurate assumptions about alcohol, rather than inform consumers. Labelling that informs consumers must be mandatory and government led, to ensure it applies to all products consistently and includes all relevant information.

**This proposal is inconsistent with the policy guideline on food labelling to support consumers to make informed healthy food choices.**

FSANZ's analysis highlights the policy guideline's aim that food labels provide adequate information to enable consumers to make informed food choices to support healthy dietary patterns recommended in the Dietary Guidelines. In our view, FSANZ's proposal is not consistent with this aim or with the guideline as a whole.

Sugar and carbohydrate claims on alcohol products cannot provide consumers with adequate information to make informed choices to support healthy dietary patterns recommended in the dietary guidelines. As outlined above, claims do not support consumers to make informed choices, rather they are a marketing tool applied in the best interests of the manufacturer. Alcohol is a harmful product that the dietary guidelines recommend be limited in the diet. Any label that promotes alcohol as a healthier choice or as 'better for you' cannot inform choices to support healthy dietary patterns, as there are no healthy alcohol products. Further, the available evidence shows that sugar claims on alcohol cause consumers to mistakenly perceive those products to have lower alcohol content – this shows these claims have the opposite effect of informing consumers.

We recommend FSANZ reconsider its assessment of how the policy guideline applies to this proposal, with a focus on reducing alcohol consumption, not sugar intake. As explained above, the primary focus of labelling on alcohol should be to reduce alcohol consumption.

Even if FSANZ does conclude that these claims can support consumers to apply the recommendations in the dietary guidelines, the policy guideline says this information '*...should be provided on food labels in a format which...does not promote consumption of foods inconsistent with dietary guidelines*'. This statement, together with the inability of sugar and carbohydrate claims on alcohol products to support informed, healthy choices, demonstrates that this proposal is not consistent with these policy guidelines.

**FSANZ's approach to this proposal is inconsistent with its approach to P1059 on energy labelling on alcohol products.**

In this proposal, FSANZ highlights the role of these claims in providing consumers with information about the sugar content of alcohol products, saying they enable consumers to make informed choices in line with dietary guideline recommendations to limit added sugar intake. We do not agree with that view, as already outlined.

This is in contrast though with FSANZ's decision in the related proposal on energy labelling on alcohol products. In that case, FSANZ said alcohol companies should only be required to put energy content on a label on the back of packaging, and that nutrients (including sugar) should not be included as they were of 'minimal significance' in relation to alcohol. While public health groups were largely supportive of that position, it is inconsistent with FSANZ's view here that information on sugar content is important for consumers to have.

**The cost benefit analysis is narrowly focused on costs to industry and should be expanded to include public health and broader costs associated with alcohol consumption**

We do not support the conclusions FSANZ puts forward in its cost benefit analysis. We do not agree that the proposal will allow for the provision of information about sugar content for consumers who choose to consume alcoholic beverages to enable them to make informed choices consistent with dietary guideline recommendations about sugar, for reasons outlined earlier in this submission. We also do not support FSANZ's conclusions based on the available evidence.

In addition to those substantive issues, we recommend FSANZ amend the cost benefit analysis in the following ways:

- › FSANZ should broaden this assessment to include consideration of alcohol intake and the dietary guideline recommendations to limit alcohol, rather than focus only on sugar.
- › FSANZ should reassess the costs and benefits of the options to include the costs associated with alcohol intake and broader alcohol harms, including alcohol's contribution to the burden of disease and the social costs of alcohol consumption. We suggest an approach similar to that taken for P1050 Pregnancy Warning Labels, where FSANZ assessed what proportion of harms (cases of FASD) would need to be avoided to outweigh the costs to industry associated with the label change.
- › FSANZ should also consider that any costs associated with removing sugar claims will only arise because the alcohol industry has been using these claims without permission to do so under the Food Standards Code. This was confirmed by FSANZ in its 2018 Technical Assessment, where



it said that the current code is not intended to permit sugar claims on alcohol products. It is very problematic that we now have a situation where the alcohol industry can claim the costs of removing claims that they were not permitted to make in the first place. In our view it would be appropriate for FSANZ to disregard the costs of removing sugar claims entirely.

- › We note FSANZ's analysis of the costs to industry associated with relabelling its products if sugar and carbohydrate claims are removed. Given that alcohol companies will be required to relabel products with the introduction of mandatory energy labelling, we ask FSANZ to ensure that these costs are not duplicated across both proposals and are adjusted downwards in recognition of the cost efficiencies associated with implementing both changes together.

**We do not agree that this proposal is consistent with FSANZ's three objectives in setting or varying food regulatory measures under s18(1) of the FSANZ Act.**

FSANZ has three objectives when setting or amending food standards, and in order of priority these are the protection of public health and safety, the provision of adequate information relating to food to enable consumers to make informed choices, and the prevention of misleading or deceptive conduct. FSANZ has assessed this proposal against each of these objectives, finding each to be met. We do not agree with FSANZ's assessment, for these reasons:

- › We do not agree that allowing carbohydrate and sugar claims on alcohol will not affect the public health and safety of consumers who choose to drink alcohol. As we have outlined already, the available evidence supports a view that these claims promote alcohol products as healthier choices, and that they cause consumers to have inaccurate assumptions about alcohol.
- › FSANZ says that the claims will provide information for those consumers who choose to consume alcoholic beverages and are seeking low and no added sugar alternatives, to enable them make informed choices. We do not agree with this assessment. These claims are marketing tools and will only provide consumers with information where beneficial for the manufacturer. They do not enable an accurate assessment and comparison of products. In addition, as evidence suggests these claims may mislead consumers, for example in causing consumers to think products with sugar claims have lower alcohol content, they do not support informed choices.
- › We do not agree that allowing sugar and carbohydrate claims on alcohol products, along with existing labelling requirements for providing information about alcohol content and nutrition information on alcoholic beverages reduces the likelihood of consumers being misled. This statement is not supported by any evidence. On the contrary, FSANZ's evidence includes a high quality study that found sugar claims on alcohol products caused consumers to mistakenly perceive the products with claims to be lower in alcohol content than those without a claim, despite the alcohol content being clearly displayed. Other evidence also shows that the presence of a claim means consumers are less likely to consider the nutrition information panel on the back of pack.

# Consultation questions

## Question 1

**Do you have or are you aware of any evidence to suggest that nutrition content claims about carbohydrate and/or sugar on alcoholic beverages affect consumers:**

- **level of consumption of alcoholic beverages?**
- **level of physical activity?**
- **general food intake?**

We do not think these questions should be used to assess whether sugar and carbohydrate claims on alcohol products should be permitted. As outlined in our submission above, this proposal should focus primarily on whether the claims are misleading consumers, and/or are promoting alcohol as a healthier choice, in line with the Food Ministers' request to FSANZ.

## Question 2

**Are you aware of any studies that sufficiently examine the effects of nutrition content claims about carbohydrate and/or sugar on choice between different types of alcoholic beverages?**

We recommend the inclusion of Cancer Council Victoria's Shape of Australia 2022 Survey, study details and results provided to FSANZ by Cancer Council Australia. As Cancer Council Australia notes, this research shows that 'no added sugar' and 'low carb' claims indicate to a large proportion of the population that certain types of alcohol products are healthier than others, and are more influential than lower alcohol claims. This supports the conclusion that sugar and alcohol claims on alcohol products create a health halo.

We also recommend the inclusion of Alcohol Change Australia's August 2023 survey on carbohydrate and sugar claims on alcohol products, study details and results provided to FSANZ by Cancer Council Australia.

This research shows that carbohydrate and sugar claims on alcohol products create a health halo and mislead Australians about the healthiness of alcohol. The study found that around one-third of people rated the cider products with low carb and low sugar claims as healthier than the identical product with no claim. The study also found that the proportion of people who understood that alcohol is unhealthy fell from 48% to 40% when a low carb claim was added, and to 37% when a low sugar claim was added.

Based on the lack of significant high quality evidence on the impact of claims on consumer perception of alcohol, we also ask FSANZ to consider the evidence on claims on food and non-alcoholic beverages. This evidence shows that:

- › Nutrition content claims on food labels reduces consumers' ability to correctly identify unhealthy foods, effectively undermining consumer understanding of the NIP<sup>8</sup>
- › Nutrition content claims decrease consumers' attention to the NIP<sup>9</sup>

<sup>8</sup> Prates SMS, Reis IA, Rojas CFU, Spinillo CG, Anastácio LR. Influence of nutrition claims on different models of front-of package nutritional labeling in supposedly healthy foods: Impact on the understanding of nutritional information, healthfulness perception, and purchase intention of Brazilian consumers. *Front Nutr*. 2022;9:921065.

<sup>9</sup> Ikonen I, Sotgiu F, Aydinli A, Verlegh PWJ. Consumer effects of front-of-package nutrition labeling: an interdisciplinary meta-analysis. *Journal of the Academy of Marketing Science*. 2020;48(3):360-83.

- › Consumers react positively to nutrition content claims, driving sales of unhealthy foods that have claims on their labels<sup>10</sup>
- › Consumers are more likely to choose foods carrying claims than those that do not<sup>11</sup>

We note this evidence also suggests that allowing sugar and carbohydrate claims on alcohol products may undermine the effect of mandatory energy labelling on the back of alcoholic products. We ask FSANZ to consider that as part of its evidence review.

### Question 3

**Do you agree with the estimates for the average cost of labelling change for option 3 for affected Stock Keeping Units (SKUs) in Attachment D? Please provide evidence to support your position.**

We note FSANZ's analysis of the costs to industry associated with relabelling its products if sugar and carbohydrate claims are removed. Given that alcohol companies will all be required to relabel products with the introduction of mandatory energy labelling, we ask FSANZ to ensure that these costs are not duplicated across both proposals and are adjusted downwards in recognition of the cost efficiencies associated with implementing both changes together.

FSANZ should also consider that any costs associated with removing sugar claims will only arise because the alcohol industry has been using these claims without permission to do so under the Food Standards Code. This was confirmed by FSANZ in its 2018 Technical Assessment, where it said that the current code is not intended to permit sugar claims on alcohol products. It is very problematic that we now have a situation where the alcohol industry can claim the costs of removing claims that they were not permitted to make in the first place. In our view it would be appropriate for FSANZ to disregard the costs of removing sugar claims entirely.

### Question 4

**Do you have any data on amounts or proportions of SKUs that carry nutrition content claims about carbohydrate and/or sugar and that would be affected by option 3?**

No response.

<sup>10</sup> Ikonen I, Sotgiu F, Aydinli A, Verlegh PWJ. Consumer effects of front-of-package nutrition labeling: an interdisciplinary meta-analysis. *Journal of the Academy of Marketing Science*. 2020;48(3):360-83.

<sup>11</sup> Kaur A, Scarborough P, Rayner M. A systematic review, and meta-analyses, of the impact of health-related claims on dietary choices. *Int J Behav Nutr Phys Act*. 2017;14(1):93; Oostenbach LH, Slits E, Robinson E, Sacks G. Systematic review of the impact of nutrition claims related to fat, sugar and energy content on food choices and energy intake. *BMC Public Health*. 2019;19(1):1296.



#### Question 5

**Do you agree with FSANZ's current overall consideration of costs and benefits?**

#### Question 6

**Are there any other material costs and benefits that you believe should be taken into account in this analysis?**

We do not support the conclusions FSANZ puts forward in its cost benefit analysis. We do not agree that the proposal will allow for the provision of information about sugar content for consumers who choose to consume alcoholic beverages to enable them to make informed choices consistent with dietary guideline recommendations about sugar, for reasons outlined earlier in this submission. We also do not support FSANZ's conclusions based on the available evidence.

In addition to those substantive issues, we recommend FSANZ amend the cost benefit analysis in the following ways:

- › FSANZ should broaden this assessment to include consideration of alcohol intake and the dietary guideline recommendations to limit alcohol, rather than focus only on sugar.
- › FSANZ should reassess the costs and benefits of the options to include the costs associated with alcohol intake and broader alcohol harms, including the burden of disease attributable to alcohol consumption and the social costs of alcohol consumption. We suggest an approach similar to that taken for P1050 Pregnancy Warning Labels, where FSANZ assessed what proportion of harms (cases of FASD) would need to be avoided to outweigh the costs to industry associated with the label change.
- › FSANZ should also consider that any costs associated with removing sugar claims will only arise because the alcohol industry has been using these claims without permission to do so under the Food Standards Code. This was confirmed by FSANZ in its 2018 Technical Assessment, where it said that the current code is not intended to permit sugar claims on alcohol products. It is very problematic that we now have a situation where the alcohol industry can claim the costs of removing claims that they were not permitted to make in the first place. In our view it would be appropriate for FSANZ to disregard the costs of removing sugar claims entirely.
- › We note FSANZ's analysis of the costs to industry associated with relabelling its products if sugar and carbohydrate claims are removed. Given that alcohol companies will all be required to relabel products with the introduction of mandatory energy labelling, we ask FSANZ to please ensure that these costs are not duplicated across both proposals and are adjusted downwards in recognition of the cost efficiencies associated with implementing both changes together.



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