



SUBMISSION:
**Proposal P1049 – Carbohydrate and
sugar claims on alcoholic beverages**

Via email to: Submissions@foodstandards.gov.au

Boxer Brewing Co appreciates the opportunity to provide a submission in response to Proposal P1049 and want to thank FSANZ staff for the constructive approach to considering the implications of this proposal.

About Boxer Brewing Company

Boxer Brewing Co, is a newly established Craft Brewery nestled in the picturesque Tabmborine Mountain of Queensland's Gold Coast Hinterland, under the ownership of Kim and Jon Heslop, who also own Witches Falls Winery, boasting extensive expertise in alcoholic beverage labelling.

At Boxer Brewing Company, our mission is to cultivate a thriving community of beer enthusiasts who share our passion for crafting exceptional brews. Together, we are dedicated to spreading the delight of beer throughout our community.

Being a newly established Craft Brewery, Boxer Brewing Co has undertaken the arduous task of developing our brand identity. Incorporating all the essential information onto our cans has presented challenges, and the inclusion of a comprehensive nutritional panel within these space constraints poses a formidable obstacle.

We also recognize the urgency of swift beer production and the minimum order quantities for cans and labels to achieve cost efficiencies. Mandating the inclusion of nutritional panels on cans and/or labels would inevitably impede the production process, jeopardizing our ability to meet canning deadlines. Consequently, we advocate for the inclusion of this information via a QR code, which would facilitate compliance with regulatory requirement while preserving the efficiency of our operations.

Fairness in balancing considerations from small producers

Small brewers are the most impacted by constant changes to labelling regulation because we create more new products each year than any other food or beverage manufacturer. And yet, of the noted targeted consultation FSANZ engaged directly with:

- 18 health advocacy bodies;
- Diageo, Lion, Coca Cola, Campari, Endeavour Group, and Coles Group

The interests of each of those alcohol manufacturers are subsequently also represented by Associations that received further direct consultation (Brewers Association of Australia, Spirits and Cocktails Australia) giving them an outsized voice in the consultation process.

The Independent Brewers Association is the only direct engagement between FSANZ and Australia's small breweries. While this is for practical reasons – due consideration should be given to appropriately weighing that we represent 425 breweries who are small businesses.

Response to Questions

- 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': (a) level of consumption of alcoholic beverages? (b) level of physical activity? (c) general food intake?**

We are not aware of any objective and unbiased evidence that suggests that nutrition content claims about carbohydrate and/or sugar on alcoholic beverages affects consumers' level of consumption of alcoholic beverages, level of physical activity or general food intake.

Should other respondents provide information in response to this question – it is our view that this data should be made available to other submitters for comment/testing and consideration prior to being adopted as useful for the consideration of this proposal. As noted in the submission document, much of the research available has been the result of ‘low quality’ studies and are often produced by a stakeholder with a vested interest in the outcome of the research.

As noted above, the Independent Brewers Association and our small business owners do not receive funding to gather such data.

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?

No. Boxer Brewing Co. is not aware of any consumer behavior studies that objectively substantively examine the effects of carbohydrate and/or sugar on the choice between different types of alcoholic beverages.

Should other respondents provide information in response to this question – it is our view that this data should be made available to other submitters for comment/testing and consideration prior to being adopted as useful for the consideration of this proposal. As noted in the submission document, much of the research available has been the result of ‘low quality’ studies and are often produced by a stakeholder with a vested interest in the outcome of the research.

As noted above, the Independent Brewers Association and our small business owners do not receive funding to gather such data.

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.

Boxer Brewing Co. does not have any evidence to support calculations of labelling costs that differ from those set out in Attachment D.

On an assessment of total beers in the market 7440¹ the cost to the broader brewing industry for label changes could be as much as \$120, 654, 480.² This highlights the imperative of ensuring any transition period or relabeling is timed with other regulated changes such as those that may arise from the current Energy Labelling Consultation.

As noted in the FSANZ Modelling³ that supports the dollar amounts presented in Attachment D, Table 1 – actual re-labelling costs vary greatly including:

- whether the change required is simply removal of text or other information or the addition of substantive impact which does require changes to both label layout and label shape/size.
- The transition time available – varying from very high costs at less than 12 months and moderated costs between 3-5 years of transition.⁴

¹ Being a combination of new beers to market and existing core ranges – extrapolated from data from Coles Liquor Group.

² 7440 total beers x Can total cost set out in Table 1 – Attachment D.

³ Summary of results – Cost survey of changing labels for alcoholic beverages – 2021 (FSANZ)

⁴ Summary of results – Cost survey of changing labels for alcoholic beverages – 2021 (FSANZ)

It should be noted that actual relabeling costs can greatly vary according to individual circumstances. Relabeling certain SKUs may cost notably less or notably more than these averages.

We also note that the cost modelling presented in Attachment D does not address any changes to outer packing which would be required under P1059 Energy Labelling on Alcoholic Beverages and we reiterate that any labelling changes should take place at the same time.

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?

Boxer Brewing Co. has identified 8 packaged beers made by independent breweries that have been available for consumer purchase in the past year.⁵ However, it is our view that this number is like to increase as this is a growing trend and consumer preferences continue to evolve and the regulatory framework is clarified.

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

Overall, Boxer Brewing Co. considers that FSANZ has generally balanced the considerations of costs and benefits well with respect to Option 2.

It is our view that a digital linking/ QR code represents the best opportunity to meet the needs of consumers to provide information to support health related claims. See our comments under heading **Qualified Support for Option 2.**

If, for any reason as a result of this consultation, FSANZ determines to adopt an alternative option, the cost benefit analysis needs to be re-evaluated.

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

As Option 2 is a confirmation of the existing status quo with clarification there is no need for a transition period. However, should FSANZ determine that alternative options should be adopted it is our view that a long transition period of greater than three years should be adopted.

As noted above, the transition time available greatly impacts costs with moderated costs between 3-5 years of transition.⁶ Small breweries require over three years to mitigate the transition costs.

Qualified Support for Option 2

Boxer Brewing Co. supports the recommendation by FSANZ to adopt Option 2 as presented in the Call for Submissions Paper with some amendments.

Option 2 – clarify the existing permission to make nutrition content claims about carbohydrate by including an express permission in the Code to make nutrition content claims about sugar on food that contains more than 1.15% ABV Under this option the Code would be amended to include an express permission for nutrition content claims about sugar on food that contains more than 1.15% ABV,

⁵ Web Search: Dan Murphys, Beer Cartel AND Independent Beer Awards (The Indies) competition entries.

⁶ Summary of results – Cost survey of changing labels for alcoholic beverages – 2021 (FSANZ)

including alcoholic beverages. Nutrition content claims about carbohydrate would continue to be permitted. The existing conditions for making carbohydrate and sugar content claims would apply.

Existing Conditions Amended –QR Codes are a necessity

We understand and support the ongoing need for a Nutrition Information Panel where a carbohydrate or sugar content claim is made.

QR Codes are a necessity

However, as set out in our submission to P1059 – Energy Labelling on Alcoholic Beverages it is our view that this does not need to be an on-label solution and that that a technology solution such as a QR code should be allowed.

Given that the overall policy guideline stems from a concern to ‘provide adequate information to enable consumers to make informed food choices to support healthy dietary patterns recommended in the Dietary Guidelines’ it would seem necessary to meet consumers where they are at – in terms of how they are accessing information. This consultation commenced in 2017 – some 6 years ago.⁷ It is commonly accepted that technology and society have changed substantially in that time.

If the existing conditions regarding carbohydrate and sugar claims are not amended as part of this consultation to enable technological solutions to be deployed – we run the risk of being out of step with how consumers expect to be able to find information today and into the future.

QR codes are ‘ubiquitous’ post COVID. According to Bernard Salt of The Demographics Group, the pandemic triggered a critical shift in consumer behavior in which Australians of all ages obtain information online, via app or via QR Code.⁸ This shift in consumer behavior is evidenced in one of Australia’s largest retailers, Woolworths, citing that ‘customers are feeling more comfortable scanning QR codes while on the move.’⁹ This example is directly applicable to supporting the use of QR codes on labels.

The legislation is being ‘opened’ now. Given the complexities and challenges of legislative change, it would be a waste of taxpayer funding of FSANZ, and all the stakeholders, to have to revisit this issue again in less than five years’ time if it was found that on label communication has not been as effective as hoped due to not meeting consumers expectations around information. We should not take this risk, rather we would request that FSANZ adopt a commonsense change now as an available option.

Finally, the research findings from Barons et al (2022) showed that of the sample of products reviewed ‘all products carrying a nutrition content claim also provided a NIP consistent with current Code requirements’¹⁰. There has been no data provided that indicates compliance would diminish if a technology option of digitally linking such as a QR code was available.

It is our view that:

- a) Option 2 should be adopted with an amendment to the existing conditions relating to carbohydrate and sugar claims to allow the option for Nutrition Information Panels to be digitally linked through a QR code (or similar).

⁷ Raised at 2017 the Australia and New Zealand Ministerial Forum on Food Regulation (now the Food Ministers’ Meeting (FMM)). FSANZ Call for Submission p5.

⁸ Presentation, Independent Brewers Association Conference, 22 August 2023.

⁹ Hannah Ross, Woolworth’s Managing Director, Everyday rewards. May, 2022. Available: <https://www.smh.com.au/business/companies/woolworths-launches-qr-code-payments-after-big-shift-towards-adoption-20220510-p5ak1j.html>

¹⁰ FSANZ Call for Submissions p16.

- b) A digitally linked solution also addresses the issues raised in P1059 – Energy Labelling – ensuring a consistent approach.
- c) It is the solution that best addresses the need to provide consumers’ information from a label to make informed choices.
- d) The legislation is ‘open’ now is the time to future proof the changes adopted to keep pace with societal and technological changes.

Limit on ability to make claims re specific sugars

The proposal intends to prohibit nutrition content claims about specifically named/ specific types of sugars and gives fructose as an example.¹¹

However, the issue of lactose requires further consideration. Lactose is properly defined as a sugar.¹²

There remains some confusion in the brewing industry as to lactose. While milk is defined as an allergen – lactose as a component of milk – is not. This is evident from a recent issue with Stone and Wood Milk Counter Culture Eirinn Irish Cream Stout for an undeclared allergen.¹³

There are a wide variety of beer styles that have names that may raise concerns amongst consumers about the presence of an allergen – Sweet Stout, Cream Stout, Oatmeal Stout, Dessert Stout, Ice cream IPA, to name a few. It would make sense to be able to state ‘Lactose Free’ on a label as a method of alerting consumers that the particular product – though of a style that may commonly contain lactose – is indeed lactose (and therefore) allergen free.

On a plain reading of the existing drafting this would not be permitted. It is our view that an exemption should exist for claims made in relation to products that would be considered allergens (or components of allergens) – not withstanding their definition as a sugar/sugars or carbohydrate. In particular that ‘lactose free’ be permitted.

It is our view, that if this issue is not addressed it will continue to create confusion as to permissibility and is contrary to giving consumers appropriate information to make informed decisions about consumption.

Thank you for the opportunity to provide input in to this process. If you require any further information please do not hesitate to contact me on [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

¹¹ FSANZ Call for Submission 5.1.1 p21.

¹² Sugars* in Schedule 4 is relevant for ‘no added sugar’ and ‘unsweetened’ nutrition content claims. Sugars* means any of the following products, derived from any source: (i) hexose monosaccharides and disaccharides, including dextrose, fructose, sucrose and lactose.

¹³ Lactose labelling requirements: FSANZ, 20 March 2023. Available: <https://brewsnews.com.au/lactose-labelling-requirements-fsanz/>