



Queensland Health

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4 September 2023

Standards Management Officer
Food Standards Australia New Zealand
PO Box 5423
Kingston ACT 2604

Dear Sir / Madam

Submission – Proposal — P1049 – Carbohydrate and sugar claims on alcoholic beverages

Thank you for the opportunity to provide a submission on the Call for Submissions Proposal (CFS) P1049.

It is noted that the questions for submitters largely focus on requests to industry and researchers to provide any additional data and evidence pertaining to this matter, and therefore where no response has been provided to a question it has been omitted from our submission.

This submission provides comments on the proposed changes to the *Australia New Zealand Food Standards Code* (the Code) and was prepared with input from health professionals from the Food Safety Standards and Regulation Unit, Prevention Strategy Branch and Health and Wellbeing Queensland. The submission does not represent a Queensland Government position, which will be a matter for the Queensland Government should notification be made by the FSANZ Board to the Food Ministers' Meeting.

Proposal P1049 has been prepared to consider amending the Code to clarify requirements in Standard 1.2.7 in relation to making nutrition content claims about carbohydrate content which includes the components of carbohydrate (such as sugar) on alcoholic beverages. Proposal P1049 is to amend Standard 1.2.7 by clarifying that nutrition content claims about sugar are permitted on foods that contain more than 1.15 per cent alcohol by volume (ABV) (Option 2). Claims about specific sugars (e.g. fructose) and other carbohydrate components (e.g. fibre) would be prohibited.

This proposal claims that the amendments to Standard 1.2.7 will provide clarity for industry and government in the implementation and enforcement of claims about sugar on alcoholic beverages and provide consumers with information about sugar on alcoholic beverages to help make informed

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choices consistent with dietary guidelines. Qualified support is provided for Option 2 as it is agreed that this option will provide clarity, however it is not agreed that this information will benefit consumers.

From a public health perspective, it is essential that alcohol companies cannot use marketing claims to confuse or mislead consumers or promote some alcohol products as 'better for you' options. This is especially important considering the significant burden of overweight and obesity, the proportion of the Australian and New Zealand population who consume alcoholic beverages, and the reported lack of knowledge regarding the energy contribution of these products. Currently there is potential to be misled by *sugar free* claims or there to be confusion by a health halo concept that may promote alcohol as a healthy choice. This is inconsistent with a key priority of the food regulation system (Priority 2) to support the public health objectives to reduce chronic disease related to overweight and obesity. It is also inconsistent with the Australian Dietary Guidelines' – specifically the recommendation to limit alcohol intake.

It is considered that the finding of 'limited evidence for behaviour change related to carbohydrate and sugar claims' does not prove there is no impact, only that the effect is not known at this stage. Further, it is noted that the proposal suggests that rather than removing permission for nutrition content claims, education may be needed to improve consumer understanding. However, no further comments are offered on how this might be achieved to ensure support for the community to understand the energy contribution that alcohol makes to their diet. Education in this complex area can be difficult, and an embargo on claims may assist in the absence of this education package. Ultimately, it is imperative that the public be provided with accurate information about the fact that alcohol is the main source of energy in most alcoholic beverages, however other components including primarily carbohydrates in the form of sugar, can also contribute to the total energy consumed.

As public health professionals, consumers and most jurisdictions at the public consultations convened by FSANZ in July 2022, generally supported the former Option 5, which is most closely aligned to the current Option 3, it is concerning that FSANZ now concludes that Option 2 represents the greatest net benefit to the community, government and industry.

The position held by FSANZ is that the currently proposed Option 3 has negative net benefits over the status quo, citing:

- prohibiting claims under Option 3 may limit consumer's ability to make informed choices in some circumstances, and
- costs to industry including re-branding, advertising and defending market shares of alcoholic beverages, and the costs of changing labels.

It is submitted that whilst CFS P1049 is based on best available evidence, the available evidence is limited and neither confirms nor refutes that sugar claims on alcoholic beverages influence consumer's overall intake of alcohol. Concerningly, within this limited evidence, it was identified that sugar/carbohydrate claims may cause consumers to make inaccurate assumptions about alcoholic beverages. Sugar claims also cause young female adults to mistakenly perceive those beverages as being lower in alcohol and are associated with young female adults being less likely to modify food intake or physical activity to compensate for the energy from alcoholic beverages. That is, sugar claims may encourage consumers to underestimate the contribution of alcoholic beverages to energy in the diet.

The *Policy Guideline on Food Labelling to Support Consumers to Make Informed Healthy Choices* was endorsed by Ministers in August 2020, whereby Ministers expect food labels to provide adequate information to enable consumers to make informed food choices to support healthy dietary patterns recommended in the Dietary Guidelines. Guideline 1 of the Australian Dietary Guidelines ([NHMRC, 2013](#)) states 'to achieve and maintain a healthy weight, be physically active and choose amounts of nutritious food and drinks to meet your energy needs'. The evidence put forward by FSANZ in CFS P1049 suggests that consumers do not understand the energy contribution of alcohol itself and that modifying food intake or physical activity does not compensate for energy from alcoholic beverages. Therefore, concern is raised that the proposal to permit nutrition content claims about sugar on food that contains more than 1.15% ABV will in fact not support informed consumer choice. As such, the proposed amendment to the Code does not enable consumers to make informed decisions to support healthy dietary patterns and therefore does not align with the intentions set out in the Ministerial Policy Guideline.

Questions for submitters

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

Option 2 will not address the potential for consumers to be misled by the presence of nutrition content claims about sugar on alcoholic beverages, which appears to be the reason Ministers raised this issue for review. The summary of the evidence review does not provide a clear rationale as to why the Ministers' concern is unfounded. Instead, the review found some evidence that sugar/carbohydrate claims cause consumers to make inaccurate assumptions about alcoholic beverages, for example, by perceiving that low-carbohydrate beer is healthier than low-alcohol beer or equating sugar claims with those beverages being lower in alcohol. Therefore, it appears that the consumer research evidence will not alleviate Ministers' concerns that sugar claims on alcoholic beverages could be misleading or demonstrate whether consumers are able to interpret these claims accurately to make informed decisions.

The limited evidence for carbohydrate/sugar claims on actual consumption of alcoholic beverages should not be used to suggest that permitting these claims may reduce consumption when it could also result in higher consumption. The true effect is not known at this time. The assessment of a net negative benefit of Option 3 preferences potential costs to industry for labelling changes and protecting market share and minimises the potential benefit for consumers by removing nutrition claims that FSANZ's own evidence indicates causes consumer confusion. It is considered that Option 3 provides a solution to the Food Ministers' concern about consumers being misled by sugar claims. Additionally, Option 3 will provide clarity for industry and regulators by removing permission for carbohydrate and sugar claims on alcoholic beverages. It is not nuanced and is easy to understand, and therefore easier to enforce. Further, option 3 is the most consistent with a key priority of the food regulation system, to support public health objectives to reduce chronic disease related to overweight and obesity as well as supporting the Australian Dietary Guidelines' recommendation to limit alcohol intake.

It is considered that Option 3 may limit consumers' ability to make informed choices in some circumstances, such as sugar-reduced premixes. However, it is believed that the benefit of removing the potential for consumers to be misled, outweighs the limited benefit of allowing nutrition content claims. Additionally, it is noted that depending on the outcome of *Proposal P1059 - Energy Labelling on Alcoholic Beverages*, this is more likely to provide consumers with nutrition information to support informed decisions, without the risks of being misled by carbohydrate and sugar claims.

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

Regarding the cost benefit analysis which concludes that Option 2 represents the greatest net benefit to the community, government and industry, it is submitted that this analysis does not adequately consider costs to public health. While it may not be explicitly stated in the FSANZ Act, costs to public health should be considered part of the cost to both the community and the government. The public health system comprises the most significant cost to government that is ever increasing with the growing burden of chronic disease in the community. Consequently, all cost benefit analyses should incorporate as a standard component, the cost burden of a proposal or standard to public health at both the community and government level.

When assessing the net benefits of Option 2, there does not appear to be consideration into the impact on weight gain and the development of chronic disease due to the increased consumption of alcoholic beverages that are perceived as 'a healthier choice'. Based on information which appears to be the healthier choice, consumers may fail to increase their exercise or decrease food intake to compensate for their alcohol consumption. This is particularly important given the evidence review identified that the presence of a claim may make consumers less likely to exercise, and less likely to change their diet, to compensate for the energy from alcoholic beverages.

Regarding costs and policy considerations, it is noted that the proposed regulatory measures have no impact on relevant existing or imminent international standards on Australia's and New Zealand's obligations under the World Trade Organization Technical Barriers to Trade Agreement. Therefore, removing the permission in the Code to make nutrition content claims about carbohydrate on food that contains more than 1.15% ABV will not impact international trade. It is also noted that the European Union Regulation 1924/2006 prohibits beverages containing more than 1.2% ABV from displaying health or nutrition claims.

The high and increasing rates of overweight and obesity in Australia and New Zealand and the growing burden of disease associated with this, is acknowledged and of significant concern. However, alcohol consumption is also associated with a broader range of public health concerns including mental illness, domestic violence and addiction. All harms, including social harms, caused by excess alcohol consumption should be considered in any cost-benefit analysis.

The [National Drug Research Institute](#) (2021) conservatively estimated the cost of alcohol use in Australia 2017-2018 financial year at \$67 billion (refer Appendix 1).

- alcohol was responsible for \$18.2 billion in tangible costs including from: ill health; health service costs such as emergency department and hospital admissions; worker absence and occupational injuries; crime; road traffic crashes; and alcohol purchases by those dependent on alcohol (but not by other alcohol consumers).
- alcohol was responsible for another \$48.6 billion in intangible costs, which is the value of items that can't be bought or sold, such as years of life lost from premature death, lost quality of life from living with alcohol dependence or from child abuse, and impacts on victims of alcohol-caused crime; and,
- not included in the overall total were costs such as those associated with Foetal Alcohol Spectrum Disorder (\$16 billion).

The median return on investment of public health interventions is an estimated 4.1 to 1 and cost-benefit ratio 8.3 in high income countries ([Masters et al. 2017](#)). Regulation to prohibit nutrition related sugar claims on alcoholic beverages in Australia and New Zealand can be regarded as an investment in public health.

Finally, costs to industry including re-branding, advertising and defending market shares of alcoholic beverages, and the costs of changing labels, are provided in CFS P1049 as part of its conclusion that Option 3 has negative net benefits over the status quo. The [Foundation for Alcohol Research and Education](#) (2021) reported alcohol retailer turnover in Australia at \$15.6 billion in 2020. It is offered that any costs borne by industry to change labels would likely pale in comparison, relative to turnover. Industry cost to change labels could be reduced with an extended implementation period or by timing the changes with any other labelling changes such as those that may arise from *Proposal P1059 - Energy Labelling on Alcoholic Beverages*.

Taking in account the sum of consumers' understanding of the sugar verses energy contributions of foods containing more than 1.15 ABV is poor, that public health costs of alcohol have not been adequately assessed, and that any costs to industry associated with adopting Option 3 have not been considered proportionate to industry retail turnover, consulted health professionals thereby endorse the precautionary prohibition of nutrition-related and sugar claims on alcoholic beverages.

Should you require further information in relation to this matter, please contact Food Safety Standards and Regulation, Health Protection Branch, [REDACTED]
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Food Safety Standards and Regulation
Health Protection Branch
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Queensland Government

Appendix 1: Infographic: Cost of alcohol use in Australia ([National Drug Research Institute, 2021](#))

