

12th September 2014

Food Standards Australia New Zealand
PO Box 10559
The Terrace
Wellington 6143

Submission for Proposal P1025 Code Revision 2014

The New Zealand Juice and Beverage Association (NZJBA) is the industry association representing the interests of manufacturers, their franchisers and suppliers, of juice based beverages, carbonated/non-carbonated drinks and bottled water in New Zealand. Production by NZJBA bottler members equates to over 95% of all water and juice based beverages sold in New Zealand as well as products exported internationally.

A list of NZJBA members are attached as Appendix 2.

The NZJBA value the opportunity to review and comment on P1025 Code Revision 2014.

The Proposal aims to modernise the presentation of the Code to better meet the needs of a broad range of stakeholders in industry, commerce and enforcement.

- presenting the Code as a single, unified instrument
- clearer presentation of requirements that impose an obligation in relation to the conduct of a food business or the sale of food, or relating to the composition of food or labeling.
- a greater reliance on definitions already present in the food acts of New Zealand and the states and the territories.

The NZJBA is a very interested party in the development of the proposed code revision P1025; with the NZJBA Technical Advisory Group (TAG) spent at least 50-60 hours of both voluntary and work time reviewing of this proposal.

The NZJBA will support a legislative framework that will allow:

1. Food safety assurance
2. Continued manufacture and distribution of products formulated to existing standard
3. Innovation within the food industry
4. Support of worldwide trends
5. Meeting consumer demands

The main concerns expressed by beverage manufacturers are summarized below and full comments are included in Appendix 1.

SPECIFIC CONCERNS

The NZJBA seeks clarification from FSANZ, where there has been identified any significant issues or unintended changes from P1025, and request that this will be remedied by FSANZ.

The NZJBA TAG has prioritized our concerns into:

- A. NZJBA biggest issue,
- B. Unintended drafting changes,
- C. Changes that have either significant confusion or ambiguity.
- D. Additional comments are available in Appendix 1.

A. NZJBA biggest issue

The continuing lack of clarity around additive permissions for fruit & vegetable beverages. There is poor understanding in the food industry of how the qualification side bar, which allows additives in reconstituted juices, works to actually allow additive permissions, Std 1.3.1, 14.1.2.1. It is essential that there is greater clarity around this.

<u>Current FSANZ Code number</u>	<u>Area for review</u>	<u>New Number in the draft FSANZ code</u>	<u>Unintended Changes to Regulation</u>
1.3.1	Schedule 15 -14.1	Schedules, Page363-367 Sch 15	<p>Note: For juice separated by other than mechanical means. Clarification required ambiguity around this statement. If purpose of code was to improve legal clarity then this does not meet it.</p> <p>Reconstituted juice currently has most additives permitted via the sidebar comment. This remains the case; however, the sidebar remains confusing and is open to multiple interpretations.</p>

B. Unintended Changes due to drafting

<u>Current FSANZ Code number</u>	<u>Area for review</u>	<u>New Number in the draft FSANZ code</u>	<u>Unintended Changes to Regulation</u>
1.3.1	Schedule 15 -14.1.4	Schedules, Page367 Sch 15	<p>950, 951, 954 have had the 'See notes' removed from Conditions column</p> <p>Note: Section 1.3.1-5 does not apply</p>
2.9.4	Formulated Supplementary Sports Foods	Schedules, Pages 556, S30.17	S30.17 – Missing column 3, Intake amounts

A. Confusing Changes

<u>Current FSANZ Code number</u>	<u>Area for review</u>	<u>New Number in the draft FSANZ code</u>	<u>Changes to Regulation</u>
1.2.10	Characterising Ingredient	Chapter 1, 1.1.2- 4 page 40	<p>Use of word 'likely' instead of 'usually' changes intent, would results in changes as to what is a characterising ingredient, potential to be misleading.</p> <p>The use of the words "likely to be" broadens the definitions by changing the meaning to provide for something that "is" to something that "could be". In this context, the characterising ingredient could be a component of food where there is a probability that the ingredient could be associated with the food. Extending this definition could unnecessarily capture ingredients that are not intended to be characterising ingredients</p>
1.3.1	All including Schedules	Chapter 1, 1.1.2- 11 page 45 definition of used as food additive	<p>When carrot juice is used as a colour, it would still be defined as a food. If it was further refined then would it become a food additive. Impact: is it an approved food additive? - magnifies the ambiguity. If becomes an additive then it would be required to meet the identity and purity standard (which it would not currently meet until it was taken back to a carotenoid)</p> <p>1.3.1-2 definitions it refers to 1.1.2-11 the new definition of used as a food additive on page 103 is now confusing. The current code under 1.3.1 as part of the food additive definition states that a food additive is.... "intentionally added to a food to achieve one or more of the technological functions specified in schedule 5" This has been replaced with "any substance that has been "selectively concentrated or refined or synthesised to perform one or more of the technological purposes listed in schedule 14" This new definition will gather in potential products that were not previously considered food additives but will now need preapproval to be used. For</p>

			example, some fibres may be affected as well as the above carrot juice mention.
	Schedule 4	pages 382, S16.04	No statement of permitted maximum level. Previously was 70mg/L for beverages. Now in Chapter 1, 1.3.1-4, page 104. It would be helpful to companies to include the permitted maximum level also in the Schedule.
1.3.3	Processing Aids	Chapter 1, 1.1.2- 13 page 46 page 397-416, S18	Change in terminology from final food to processed food implication is that a processed food may not necessarily be a final food. Final food vs. processed and no definition for processed food. Ambiguity.

CONCLUSION

NZJBA TAG team (excluding NZJBA members) have spent at least 50-60 hours of both work and voluntary time reviewing of this proposal.

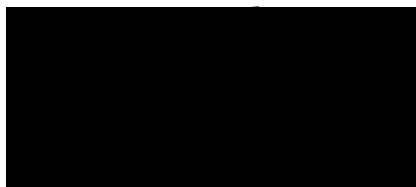
The NZJBA would encourage FSANZ to review the points that have been raised and give due consideration to a review to ensure legislative framework that will allow:

- ⇒ Ensures food safety
- ⇒ Continued manufacture and distribution of products formulated to existing standard
- ⇒ Innovation within the food industry
- ⇒ Supports worldwide trends
- ⇒ Meets consumer demands

Should any further information or data be required, please do not hesitate to contact the undersigned.

We look forward to receiving feedback to our submission.

Kind Regards



**Executive Director
New Zealand Juice & Beverage Association Inc**

APPENDIX 1: NZJBA FSANZ Code Review 2014

<u>Current FSANZ Code number</u>	<u>Area for review</u>	<u>New Number in the draft FSANZ code</u>	<u>Changes to Regulation</u>
1.2.4	Labelling of Ingredients	Chapter1, 1.2.4, pages 65-68	No comment.
1.2.7	Nutrition, Health & Related Claims	Chapter1, 1.2.7, pages 73-85 Schedules, page 251-302 S4-1-S6-2	No comment. No change to schedules (now relocated in Schedules with all other Schedules)
1.2.8	Nutrition Information Requirements	Chapter 1, 1.2.8, page 86 Schedules, pages 322-327, S12	Location of some information has moved. calculations & energy factors (schedule 11) example NIP layout - including more than previously = %DI, FCB's (schedule 12) Pages 322-327 - S12 NIP's. Prescribed tables do not include word 'average quantity' as per wording in Chapter 1, 1.2. Formula moved to Schedule 11 pg 318 but the intent of the original definition needs to be added back i.e. "energy factor means the energy of the food component expressed in kilojoules per gram of food component rounded to the nearest whole number."
1.2.10	Characterising Ingredients and components of food	Chapter 1, 1.1.2- 4 page 40	Use of word 'likely' instead of 'usually' changes intent, would results in changes as to what is a characterising ingredient, potential to be misleading.

1.3.1	All including Schedules	Chapter 1, 1.1.2- 11 page 45 definition of used as food additive	<p>Definitions changed around food, additive, processing aid. Watch for colouring food stuffs, watch e.g. Colour that has been purified and some flavours. Flavour/Sweetness enhancer is still okay</p> <p>Schedule, S15-5 Flavours – 306 was noted for Deletion in 11 Oct 2014. Is this still the case –not mentioned?</p> <p>When carrot juice is used as a colour, it would still be defined as a food. If it was further refined then would it become a food additive - impact: is it an approved food additive? - magnifies the ambiguity/hole.</p> <p>If becomes an additive then would be required to meet identity and purity standard (which it would not currently meet until it was taken back to a carotenoid)</p> <p>1.3.1-2 definitions it refers to 1.1.2-11 the new definition of used as a food additive on page 103 is now confusing. The current code under 1.3.1 as part of the food additive definition states that a food additive is.... “intentionally added to a food to achieve one or more of the technological functions specified in schedule 5” This has been replaced with “any substance that has been “selectively concentrated or refined or synthesised to perform one or more of the technological purposes listed in schedule 14”</p> <p>In the past there was no definition around food additive as such but this definition will gather in potential products that were not previously considered food additives but will now need preapproval to be used – some fibres spring to mind.</p>
	<ul style="list-style-type: none"> Schedule 1 -14.1 	Schedules, Page 363-367 Sch 15 Schedules, page 335, 15.05(0.3) - Flavourings	<p>Note: For juice separated by other than mechanical means. Clarification required ambiguity around this statement. If purpose of code was to improve legal clarity then this does not meet it.</p> <p>Reconstituted juice currently has most additives permitted via the sidebar comment. This remains the case, and it remains confusing and open to multiple interpretations.</p>
	<ul style="list-style-type: none"> Schedule 2 	Schedule, pages 381, S16-2	No change
	<ul style="list-style-type: none"> Schedule 3 	Schedule, pages 381, S16-3	No change

	<ul style="list-style-type: none"> Schedule 4 	Schedule, pages 382, S16-4	No statement of permitted level maximum level. Previously was 70mg/L for beverages. Now in Chapter 1, 1.3.1-4, page 104
1.3.2	Vitamins & Minerals	Chapter 2, 1.3.2, pages 107-109 Chapter 2, 1.1.2-14, page 47 Schedules, page 231-233 S1-2 & S1-3 & S1-4 Schedules, page 384-386 S17-2 & S17-3 Schedules, page 387-396 S17-4	Page 384 has tbb above table, what is this in relation to? Page 391, 392, 396 - Change of terminology from 'Carotene forms of Vitamin A' to 'Provitamin A forms of Vitamin A'. No change to meaning or intent.
1.3.3	Processing Aids	Chapter, 1.1.2- 13 page 46 page 397-416, S18	Concept has changed to make a distinction between a substance that is used as a processing aid and a food that is used as a processing aid. Change in terminology from final food to processed food implication is that a processed food may not necessarily be a final food. Final food vs. processed and no definition for processed food. Ambiguity.
1.3.4	Identity & Purity	Schedules, page 236-250	No comment
1.5.1	Novel Foods	Chapter 1, 1.5.1, pages 122- 123	No comment
1.5.2	Foods produced from Gene Technology	Chapter 1, 1.5.2, pages 124- 126	No comment
2.6.1	Fruit Juice & Vegetable Juice	Chapter 2, 2.6.1, pages 159-160 Schedules, S15- 14.1.2.1, page 364	Change to wording in definition of Juice, use of words 'undiluted juice' to 'original juice' NZJBA does not believe this changes intent.
2.6.2	Non – Alcoholic Beverages and Brewed Soft Drinks	Chapter 2, 2.6.2, pages 159-160 Schedules, S15- 14.1, pages 364 -367 Schedules, S15 page 535	Fruit drinks definition has been clarified

	Electrolyte drinks	Chapter 2, 2.6.2-9, 2.6.2-9, pages 164-165 Schedules, S15- 14.1, pages 364 -367	No Change
2.6.4	Formulated Caffeinated Beverages	Chapter 2, 2.6.4, pages 167-169 Schedules, S15- 14.1.3, pages 365 -366 Schedules, S293, page 536	<p>Changed from 'non-alcoholic water based flavoured beverage...' to 'flavoured non-alcoholic beverage....' - removal of water based. What additives are now permitted Schedules, page 365, 14.1.3; Water based flavoured drinks, 114.1.3.01 Electrolyte drink and electrolyte drink base. - OK as definition of non-alcoholic beverage is water based flavoured drinks and electrolyte drinks.</p> <p>Reworded - no impact on intent</p> <p>Change of wording “maximum permitted one-day quantity” now “permitted amount “ – would be best to revert to read as “maximum permitted one-day quantity”.</p> <p>Reference to “food” should be changed to “formulated caffeinated beverage”</p> <p>Reference to “the beverage “ should be changed to “the formulated caffeinated beverage” , for clarification of meaning.</p>
2.9.4	Formulated Supplementary Sports Foods	Chapter 2, 2.9.4, pages 204-206 Schedules, S30-16, S30-17, S30-18 & S30-19 pages 554 -558	<p>Checking and cross referencing std against schedules as currently listed of permitted forms and intake amounts are now split into schedules 17- 2 p384 (Vits & Mins) and S30.16 Additional permitted forms and intake amounts S30-14 -S30.19</p> <p>page 554 S30.16- ok</p> <p>page 556, S30.16 - Missing column 3, Intake amounts</p> <p>page 557, S30.18 - addition of specific isomer L, more accurate terminology – ok</p> <p>page 558, S30.19 - ok</p>

APPENDIX 2: NZJBA Member List

BEVERAGE MEMBERS

[Barker's of Geraldine](#)
[Barwell Pacific Ltd](#)
[Beachview Products Ltd](#)
[Beaumont Organic Ltd](#)
[Coca-Cola Oceania Ltd](#)
[Coca-Cola Amatil NZ Ltd](#)
[Directus International Ltd](#)
[ENZAFOODS New Zealand Ltd](#)
Essentials Trading Ltd
[Frucor Beverages Ltd](#)
[Fruit Solutions Ltd](#)
[Fruit Squeeze Ltd](#)
[Glaxo SmithKline NZ](#)
[Greenways Orchards Ltd](#)
[International Flavors and Fragrances \(NZ\) Ltd](#)
[Ingredient Techniques NZ Ltd](#)
[James Crisp \(NZ\) Ltd](#)
Kerry Ingredients Ltd
[Kiwifruit Processing Co Ltd](#)
MMC Limited
Natural Sugars NZ Ltd
[Nekta Products Ltd](#)
[Phoenix Organics Ltd](#)
[Profruit \(2006\) Ltd](#)
[Relax NZ Ltd](#)
[RD2 International Ltd](#)
[Salkat New Zealand Ltd](#)
[Sensient Technologies](#)
[Simply Squeezed](#)
Steam Brewing Company
[The Better Drinks Co Ltd](#)
[Ti-Tonics Limited](#)
[Tradex Oceania Limited](#)
[Zebra Zoo Ltd](#)
[Zymus International Ltd](#)

WATER MEMBERS

[Alpha Aqua Ltd](#)
[Antipodes Water Company Ltd](#)
[Aquasplash Limited](#)
[Kauri Springs NZ Ltd](#)
[NZ Drinks Ltd](#)
[New Zealand Spring Water](#)
New Zealand Quality Waters Ltd
[Waiwera Water New Zealand Ltd](#)