



AUSTRALIAN  
**FOOD &  
GROCERY**  
COUNCIL



# AFGC submission Proposal P1063 – Code revision (2024) – Added sugar(s) claims

27 June 2024

## PREFACE

The Australian Food and Grocery Council (AFGC) is the leading national organisation representing Australia's food, beverage and grocery manufacturing sector.

With an annual turnover in the 2021-22 financial year of \$144 billion, Australia's food and grocery manufacturing sector makes a substantial contribution to the Australian economy and is vital to the nation's future prosperity.

The diverse and sustainable industry is made up of over 17,000 businesses ranging from some of the largest globally significant multinational companies to small and medium enterprises. Each of these businesses contributed to an industry-wide \$3.2 billion capital investment in 2021-2022.

Food, beverage and grocery manufacturing together form Australia's largest manufacturing sector, representing over 31 per cent of total manufacturing turnover in Australia. The industry makes a large contribution to rural and regional Australian economies, with almost 40 per cent of its 271,000 employees being in rural and regional Australia.

It is essential to the economic and social development of Australia, and particularly rural and regional Australia, that the magnitude, significance and contribution of this industry is recognised and factored into the Government's economic, industrial and trade policies.

Throughout the COVID-19 pandemic, the food and grocery manufacturing sector proved its essential contribution to Australian life. Over this time, while our supply chains were tested, they remain resilient but fragile.

The industry has a clear view, outlined in *Sustaining Australia: Food and Grocery Manufacturing 2030*, of its role in the post-COVID19 recovery through an expansion of domestic manufacturing, jobs growth, higher exports and enhancing the sovereign capability of the entire sector.

*This submission has been prepared by the AFGC and reflects the collective views of the membership.*

## OVERVIEW

The AFGC welcomes the opportunity to provide comments on [Proposal P1063 - Code revision \(2024\) – Added sugar\(s\) claims](#).

As the AFGC understands, proposal P1063 seeks to:

- amend section S4—3 of the Code to correct the typographical error; and
- remove the term ‘sugars\*’ from the Code as that term is now redundant as a result of the amendments made by Proposal P1062.

The AFGC has reviewed FSANZ’s assessment, and the draft variation prepared by FSANZ.

## GENERAL COMMENTS

The AFGC supports the need to revise the Code following amendments resulting from Proposal P1062 - Defining added sugars for claims (P1062), however, it has concerns regarding the proposed amendments as described below.

## SPECIFIC COMMENTS

### DRAFT VARIATIONS TO THE CODE

The AFGC **agrees** with FSANZ assessment that the term “sugars\*” is now redundant and should be removed in Standards 1.1.2, 1.2.7, 1.2.8, 2.6.2 and Schedule 4.

The AFGC **disagrees** with the proposed amendments to “correct a typographical error in section S4—3 of the Food Standards Code” because the proposed change is open to be interpreted to not meet the intent of P1062.

The AFGC notes that the draft variation prepared by FSANZ replaces the word ‘and’ with the word ‘or’ as follows:

**Section S4—3 (table entry dealing with “Sugar or sugars”, descriptor of ‘No added’ in column 3, subparagraph (b)(i) in column 4)**

Omit “an added sugar as an added ingredient; and”, substitute “an added sugar as an added ingredient; or”

The AFGC notes the statement in the Call for submissions that:

*“The use of the word ‘and’ is a typographical error. The provision should provide that a claim may be made if the food complies with either condition (i) or condition (ii), not both. The Item will therefore omit from that table the words “an added sugar as an added ingredient; and” and replace them with the words “an added sugar as an added ingredient; or”.”*

If the proposed draft variation is approved, the requirements for making a no added sugar(s) claim in Schedule 4 will read:

- (a) The food for sale is not an added sugar.
- (b) The food for sale does not contain:
  - i. an added sugar as an added ingredient; or
  - ii. more sugars than:
    - (A) 10 g/100 g for solid food; or
    - (B) 7.5 g/100 mL for liquid food.

The AFGC is of the view that the proposed amended condition results in ambiguity, increasing the potential for misinterpretation.

The proposed amendment could be interpreted as to allow a *no added sugar* claim to be made if conditions in subparagraphs (a), and (b)(i) **or** (b)(ii) of Column 4 are met (i.e. the conditions operate independently).

Below is an example of a beverage with added sugar as an ingredient, but with a total sugar level of 4.9g/100mL.

Condition that must be met	Comment
(a) The food is not an added sugar	Meets
(b) The food for sale does not contain: (i) an added sugar as an added ingredient; <b>or</b>	Disregard based on the 'or' statement
(b) The food for sale does not contain: (ii) more sugars than: (A) 10g/100g for solid food; or (B) 7.5g/100mL for liquid food	Meets as the product contains <7.5g/100mL

As conditions (a) and (b)(ii) have been met, it could be interpreted that a no added sugar claim would be permitted, even though sugar is added to the product, which would be at odds with Australian and New Zealand Consumer Law regarding misleading claims.

The AFGC understands this interpretation contradicts the intent of P1062 that a no added sugar(s) claim is not permitted when a food:

- contains, or is, an 'added sugar' (as defined in Schedule 4)
- does not contain 'added sugar' but contains more *sugars* (i.e. monosaccharides and disaccharides) than the prescribed amounts for solid and liquid food.

To provide clarity and aid interpretation aligned with the intent of P1062, the AFGC **recommends** the proposed amendment to the table to Section S4—3 be re-drafted as follows:

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<i>*Property of food</i>	<i>General claim conditions that must be met</i>	<i>Specific descriptor</i>	<i>Conditions that must be met if using specific descriptor in Column 3</i>
		No added	(a) The food for sale is not an added sugar. (b) The food for sale does not contain an added sugar as an added ingredient (c) The food for sale does not contain more sugars than: (i) 10 g/100 g for solid food; or (ii) 7.5 g/100 mL for liquid food d) The food for sale has not had the concentration of hexose monosaccharides and disaccharides in that food increased by hydrolysis of carbohydrates during the production of that food. e).....

This would have the effect that the food needs to meet all conditions in subparagraphs (a) through (i) to make a *no added sugar* claim.

## CONCLUSION

The AFGC supports the need to revise the Code following amendments resulting from Proposal P1062 - Defining added sugars for claims (P1062), however, the proposed drafting is ambiguous and open to interpretation.

The AFGC recommends that the drafting be reconsidered to improve clarity and align with the intent of P1062.

# State of Industry 2020-21

AUSTRALIAN FOOD & GROCERY COUNCIL

**TOTAL  
TURNOVER**  
**\$133.6bn**  
(+ 0.9%)

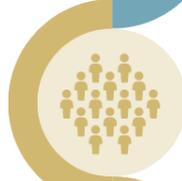


**DOMESTIC  
TURNOVER**  
**\$99.4bn**  
(YoY growth: 9.0%)

**AFG TURNOVER**  
**32.1%**  
(As % of  
manufacturing)



**EMPLOYMENT**  
**272,800**  
(+ 0.8%)



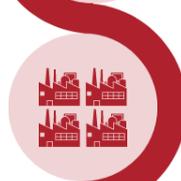
**REGIONAL  
EMPLOYMENT**  
**40.3%**  
For 2021



**CAPITAL  
INVESTMENT**  
**\$3.2bn**  
(+ 3.1%)



**BUSINESS  
COUNT**  
**16,397**  
(+ 1.7%)



**EXPORTS**  
**\$34.2bn**  
(- 17.1%)



**IMPORTS**  
**\$37.2bn**  
(- 6.6%)



The figures on this page exclude the fresh food sector and are based on 2020-21 ABS data.

1: This is total number of employees, head count basis and does not include seasonal employees.

2: Gross fixed capital formation for food, beverage and tobacco manufacturing subsector is taken as indicator of capital investment.