



FRUIT JUICE QUALITY DESCRIPTOR / REPRESENTATIONS GUIDELINES

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**QUALITY
DESCRIPTOR/REPRESENTATIONS
GUIDELINES
FOR THE
NEW ZEALAND FRUIT JUICE INDUSTRY**

1.0 INTRODUCTION

These guidelines have been prepared by the Technical Committee of the NZ Juice & Beverage Association (NZJBA), to assist members in complying with the relevant regulatory requirements with regard to the labeling of juice products.

The guidelines are based on the following Regulations and published guidelines:

- Food Standards Australia NZ (FSANZ)
- FSANZ User Guide – Representations About Food
- NZ Fair Trading Act
- NZ Commerce Commission Juice Labeling Guidelines (1995).

It is important to recognise that the use of these guidelines will only assist in achieving compliance but will not guarantee compliance. Whether or not a label is seen to be misleading is dependent on the overall impression created by the label and associated advertising. It is not possible to develop definitive rules as to what is compliant and what is not, as there are a multitude of variables that impact on the overall impression.

The NZ Commerce Commission has reviewed these guidelines and, although the Commerce Commission has not ratified this document, the Commission's recommendations have been taken into consideration.

2.0 DEFINITIONS

2.1 Representations

The FSANZ User Guides (Representations About Food) defines a "Representation" as any statement or impression made or implied about a product.

This includes:

- any particular claim made in writing or verbally
- any advertising associated with the representation, or
- any important facts that the manufacturer has left out.

The representation of a food should:

- describe the true nature of the food;
- not be false, misleading or deceptive to consumers and should not be used in a manner which creates unfair trading advantages;
- not include contradictory information about the food.

2.2 **Substantiation**

The FSANZ User Guides (Representations About Food) requires that:

- all representations can be substantiated
- representations are not based on opinions unless you know they are true, and you have some supporting evidence.

It is the responsibility of manufacturers to decide what substantiation is necessary for a particular representation. Options include analytical determinations and written records of facts.

3.0 **SPECIFIC QUALITY DESCRIPTORS AND REPRESENTATIONS**

The guidelines that are provided for the use of the following terms, apply in the main when these terms are used as part of the principal descriptor of the product or are used to describe the product anywhere on the label. The NZJBA recommendation that is provided as to the use of each descriptor is based on the regulations and guidelines as outlined in section 1.0. An excerpt of the relevant regulation or guideline is provided where relevant as a footnote.

The NZJBA has also incorporated decisions of the NZ Commerce Commission (NZCC) in relation to specific labeling issues that have been brought to the attention of the NZCC. These decisions are made on the basis of a specific product label, which means the decision is dependent on the overall impression created by that label. However, provided that limitation is taken into account, these decisions can provide the equivalent of “case law” to assist the industry in determining what is considered to be misleading and what is not. The NZJBA is dependant on individual companies providing this feedback and is grateful to those who have contributed the information to date. The NZJBA anticipates that this guideline will be regularly updated as further NZCC opinions are brought to its attention.

Note that, even if the following words cannot be used as descriptors, it may still be possible to use them on the label, provided they do not mislead the consumer into believing that the word is being used to represent the quality of the product, e.g. ‘naturally’ good for you. It is important to remember that it is not the use of the individual words that may mislead the consumer but the *overall impression* created by the label and associated advertising.

3.1 **“Fresh”**

Fruit juice can only be referred to as ‘fresh’ if it meets the following criteria and is in line with the Food Standards Code on ‘Mechanical Extraction’.

- Must not contain, or have ever contained, food additives such as flavouring or colouring agents, preservatives, artificial or synthetic ingredients or added vitamins or minerals.
- Must not contain any juice that has undergone a concentration process.
- Must not have been subjected to a high temperature treatment.
- Must not be stored frozen or contain frozen juice.

- Should have a shortened shelf-life as compared to similar "non-fresh" products in the market-place and must not be stored for more than 48 hours from the time of extraction prior to finished product packaging.
- No flavours can be added
- No vitamin C can be added

Fruit juice meeting the above criteria may use the term "fresh", "freshly" and "daily", on its own or in conjunction with "squeezed" or "pressed" and like terms and representations. The word "daily" can only be used as a descriptor for product that is prepared daily.

3.2 **"Not from Concentrate" (NFC)**¹

Fruit juice can only be referred to as "Not from Concentrate" if it meets the following criteria:

- Must not contain any juice from concentrate.
- Must not contain any additives other than mentioned in the Food Standards Code Section 1.3.1, schedule 1, part 14.1.2, and provided they are declared.
- Must not have added water.

Fruit juice meeting the above criteria may use the terms "squeezed" or "pressed" (Freshly Squeezed/Pressed is not allowed).

"Fresh Style" descriptors could be acceptable providing the product had a flavour associated with fresh juice. However, the whole descriptor must be printed clearly and the perception that the product could be "fresh" must be avoided (Reference: Fair trading Guidelines from the Commerce Commission).

Under the "Characterising Ingredient" legislation, when using other juices that have been concentrated, it is necessary to declare the level of NFC vs reconstituted juice, if it is declared as a blend of NFC and reconstituted juice.

3.3 **"Pure"**²

Fruit juice can only be described as pure if it is not from concentrate and contains no additives (eg. vitamin C, flavours, and preservatives). For example,

¹ Food Standards Code Section 1.3.1, schedule 1, part 14.1.2:

This section of the Food Standards Code has been referenced to ensure members are aware of this relevant section of the code, and the list of additives that are approved under FSANZ for use in fruit juice.

²The NZCC Juice Labelling Guidelines state:

"Pure should only be used to describe products, or parts of products, which contain only one ingredient, and that juice that is reconstituted cannot be described as pure"

The FSANZ User Guide states:

"Pure" or "100% pure" should not be used in the label of a reconstituted product as it is potentially misleading. "Pure" or "100% pure" should not be used in the label of a juice product if any other ingredient such as sodium benzoate, sugar, colour, or vitamin C, is in the product."

juice described as “pure orange juice” should not contain anything but NFC orange juice.

“Pure fruit juice” could contain a combination of fruit juices, eg Pure Fruit Juice (orange and mango juice), providing all the juices are not from concentrate and no additives are present.

3.4 **"100%"**³

The descriptor “100%” can be used in the same way as “pure” as described above for NFC juice without additives.

If the juice is reconstituted from concentrate then it is acceptable to use the descriptor “100%” as follows; “100% reconstituted fruit juice” or “100% juice from concentrate”. If the reconstitution process involves the adding back of flavours and vitamin C lost in the concentration process, then it is acceptable to use this descriptor when flavours and vitamin C are added.

The use of “100%” in the ingredient statement is acceptable when used in line with the FSANZ requirements for the % declaration of characterising ingredients.

3.5 **“Natural” and like Terms and Representations**⁴

"Natural", "traditional", "mother nature", “real” or "nature's way", are often used to give the impression that a food item is more natural, healthy or pure than other products.

A "natural food" must not contain, or have ever contained food additives such as flavouring or colouring agents, preservatives, artificial or synthetic ingredients, or added vitamins or minerals. It should not have any integral part removed or changed. Where food has undergone a form of processing that alters its intrinsic characteristics, it may be misleading to describe it as "natural".

³ The NZCC Juice Labeling Guidelines state:

“Pure should only be used to describe products, or parts of products, which contain only one ingredient, and that juice that is reconstituted cannot be described as pure. The same applies to the use of “100%”.”

The FSANZ User Guide states:

“Pure” or “100% pure” should not be used in the label of a reconstituted product as it is potentially misleading.”

⁴ The FSANZ User Guide states:

The term "natural" and similar words should only be used in respect of foods:

- in the state in which they exist in nature
- which do not contain food additives other than natural food additives.

3.6 "Organic" and like Terms and Representations

Generally, "organic" or "organically grown" is understood to mean grown without the use of "chemicals" such as inorganic fertilizers and pesticides, and not be derived from genetically modified crops.

Manufacturers must be independently certified by a recognised national authority before a claim of organic nature can be made.

3.7 "May Contain"

The use of "may contain" is required for advisory and warning statements as defined by the FSANZ legislation.

However use of "may contain" statements in other contexts may be considered to be deceptive and misleading, e.g.

- "The product may contain sugar at certain times of the year"

The industry view is that it either does - or it does not. If the ingredients change, then so must the label. There are no exceptions.

- "May contain concentrate due to seasonable availability"

This is not permitted and separate labeling would be required to cover this seasonality problem.

3.8 "No Added Preservatives"

Ascorbic acid is generally added back to juice to replace the amount of vitamin C lost during the concentration and pasteurisation process; this ensures that the juice contains the level of vitamin C one would expect to find in a natural juice.

Ascorbic acid does not act as a preservative as defined by FSANZ: "retards or prevents the deterioration of a food by microorganisms". It can act as an antioxidant, but is needed at significantly lower levels than that associated with being a good source of vitamin C.

A "No Added Preservative" claim is permitted, provided that the ascorbic acid has been added to replace the lost Vitamin C and is not being added purely as a preservative and no other preservatives are added.

A "No Added Preservative" claim should not be made where there is carry over of a preservative in an ingredient.

3.9 Origin Labeling⁵

⁵ The NZCC Juice Labeling Guidelines indicate:

A label must declare that a product contains imported ingredients where to do otherwise could potentially mislead the consumer.

For example, an imported orange juice concentrate is mixed with water at a local facility. The labeling could be misleading with respect to the place of origin of the orange juice if the only reference relating to origin on the packaging is XYZ Company, Auckland, New Zealand. A more descriptive statement is necessary such as “contains imported orange juice concentrate”.

4.0 THE NAMING OF FRUIT PRODUCTS

The FSANZ guidelines on representations about food state that if the name of more than one ingredient is included in the name of the food then it is necessary to list the ingredients in descending order of their proportion in the product (e.g. 'orange and mango juice'. This indicates there is more orange than mango juice in the product. Conversely, 'mango and orange juice' indicates there is more mango juice than orange juice). In accordance with Standard 1.2.10 of the FSANZ Food Standards, this product would require a percentage labeling declaration listing the ingredients in order of descending ingredients on the label.

The name of a food should only include words to describe major ingredients of the product and not draw attention to minor ingredients unless:

- the major ingredients are also included in the name; or
- the minor ingredients are characterising ingredients.

For example, if a fruit juice is a blend of apple (80%), strawberry (15%), and mango (5%), it would be misleading to name the juice 'apple and mango juice' because attention would be drawn to a minor constituent without naming a constituent that is present at higher levels. The product could be called 'apple, strawberry, and mango juice' or even 'blended fruit juice'. Again the name and representation of the product would trigger a percentage labelling requirement under Standard 1.2.10 to list the ingredients in their descending order.

5.0 "GUIDELINES FOR PICTORIAL REPRESENTATIONS & ADVERTISING"

The FSANZ guidelines on representations about food state that pictorial representations include logos, stylised flags, emblems, symbols, photos, designs or drawings that may be used in a label or in the advertising of a food product.

1. Any pictorials of fruit on fruit juice beverages should only be present when that fruit juice beverage actually contains juice from the fruit depicted.

“If an address is declared, as required by FSANZ legislation, then the label may be misleading if the product does not originate from the country of that address.”

2. Pictorials of fruit on packs of a mixed fruit juice beverage must occur in approximately the proportion that the various juices in question occur in the product, or at a proportion that represents the flavour being delivered by the product. No over emphasis of something that is not significant and no under emphasis of something that is significant.
3. A label may include a picture representing the origin or source of the food, provided that it is consistent with the other guidelines on pictorial representations.
4. Where the label of a food pictorially represents a food or ingredient for the purposes of demonstrating recipes or serving suggestions, then the label must be clear that the purpose of the pictorial representation is for demonstration purposes only.
5. The same guidelines that apply to pictorial representations on the labels of food also apply to advertisements for food. The advertising must not give a misleading or deceptive overall impression about the food being advertised. Manufacturers must look at the overall impression created by the advertisement and be sure that the prospective consumer is not likely to be misled or deceived.

6.0 COMPARATIVE CLAIMS

Manufacturers should not make comparisons between foods that cannot be substantiated. When comparing their foods to other equivalent foods manufacturers should ensure that there is a reasonable basis for the comparison. The overall impression created by a comparison and the particular facts referred to in a comparison must not be false, misleading or deceptive.

Businesses considering a comparative advertising campaign should consider not only the need for accuracy, but also the duration and extent of the advertisements planned and the likely reaction of competitors.

Advertisements may mislead consumers and may breach the trademark of competitors if there is not a reasonable basis for the comparison. **There must be some basis for comparing the food in question with the other food.** This means that the foods being compared should be similar in character, composition, etc. Manufacturers should avoid comparing liquid foods with solid foods, or foods used in small quantities with foods used in large quantities, or foods consumed occasionally with foods consumed regularly.

The comparison should be complete and not rely on only providing half the facts. **Manufacturers should ensure that consumers have all the necessary facts to judge the comparison.** If manufacturers are not sure of all the facts or if these facts are too complex to convey to consumers then it may be better to avoid the comparison and use a different marketing strategy.

Manufacturers must look to ensure that the overall impression of the comparison is not false, misleading or deceptive.

