



**Against the Code – How
alcohol companies breach the
Australia New Zealand Food
Standards Code on Health
and Nutrition Content Claims**

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fare.

Foundation for Alcohol
Research & Education

Far too many Australians are negatively impacted by alcohol harm in Australia.

Nearly 6,000 people lose their lives every year and more than 144,000 people are hospitalised from alcohol use,¹ with alcohol use casually linked to over 200 disease and injury conditions.²

In acknowledgement of the harmful and addictive nature of alcoholic products, Australia prohibits companies from making health and nutrition content claims about alcoholic products in their advertising under the Australia New Zealand Food Standards Code (standard 1.2.7 on Nutrition, health and related claims).³ This is an important measure for ensuring that the public health advice to limit alcohol use is not undermined by the positioning of alcohol products as having health or nutritional benefits.

However, alcohol companies have continued to increase the marketing of alcohol products using health-oriented claims over the past decade. This includes the increased use of broad nutrition-related claims such as 'no additives/preservative free', as well as the use of nutrient specific claims, such as 'low sugar'.⁴

Health and nutrition related marketing is used by companies to create a 'health halo' effect to create an impression that a product is healthier or 'better-for-you'.⁵ Alcohol companies use this misleading marketing tactic to target people who are trying to be health-conscious,⁶ especially health-conscious younger Australians that might be looking to reduce their alcohol use.⁷ This is particularly seen in the marketing of alcoholic seltzers,⁸ which commonly employ health-oriented marketing to attract younger people.⁹

"The positioning of seltzers is ideally suited to younger consumers, who are also more likely to make changes to their lifestyles, including limiting their intake of alcohol and sugar. This trend also creates opportunities for more aggressive marketing through social media and influencers on these platforms to reach out to millennials and Generation Z consumers who are likely to be interested in hard seltzers."¹⁰

In late 2023 and early 2024, we observed alcohol companies promoting new products to the Australian market using prohibited health and nutrition content claims. To assess whether additional alcohol companies were using prohibited claims, we conducted an online search through Google, Facebook, Instagram and alcohol retailer websites. We then raised complaints with regulators about companies breaching the regulation.

In July 2024 we reviewed each alcohol product that a complaint was lodged about to assess whether prohibited claims had been removed. We also repeated our original search to assess whether additional alcohol companies were making prohibited claims. We reviewed complaint outcomes again in December 2024.

Below we present examples we identified of alcoholic products making prohibited health and nutrition content claims and the outcomes from complaints lodged with regulators.

Nutrition content claim: A claim about the presence or absence of a nutrient or substance within a product. For example, "low sugar", "contains electrolytes" and "contains vitamins."

Health claim: An evidence-based claim about the relationship between the product and a health effect. A health claim can be general in nature, for example "boosts immunity" or "good for gut health", or can be about a serious disease risk, for example "may reduce the risk of developing cancer."

Nutrition and health claims are currently prohibited from being made about alcohol products, with the limited exception of nutrition content claims about energy, carbohydrate and gluten content.

Prohibited health and nutrition content claims on alcohol products

We identified 15 alcohol companies making prohibited health and nutrition claims between October 2023 and January 2024 and an additional four companies in July 2024. Details of each alcohol product and claims are presented in Table 1 with examples discussed below.

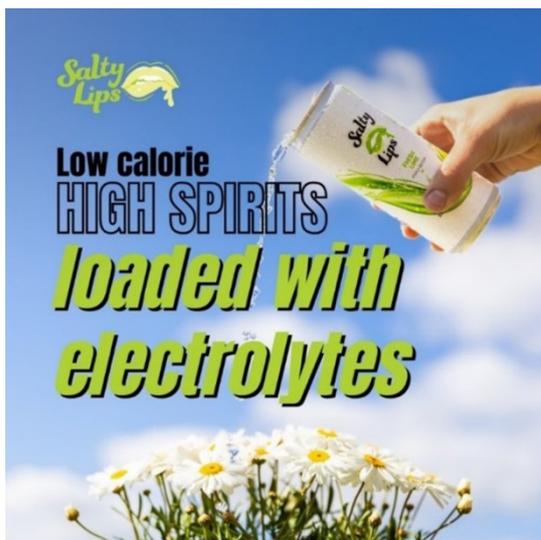
Ready-to-drink (RTD) alcohol products including seltzers and kombuchas were the most common product identified making a prohibited nutrition or health claim, followed by beer and spirits. Common prohibited claims included claims related to electrolyte content, the presence of vitamins and minerals, and protein claims.

Electrolyte claims

We identified 11 companies making claims about electrolyte content, including RTDs and beer. Electrolyte claims were present on social media accounts and posts, product pages on retailer websites, on producer websites, and product labels.

Alcoholic products were marketed as 'electro-enhanced', 'low calories, high spirits, loaded with electrolytes', 'balanced perfectly with natural essences and essential electrolytes', 'beer without burden, brewed lite with electrolytes' and 'easy drinking with electrolytes.'

In some instances, companies insinuated or outright claimed that the electrolyte content will help prevent hangovers (e.g. "charged with everything you need, like electrolytes, to get social today and stay social tomorrow").





Probiotics, vitamins, minerals and antioxidant claims

Alcoholic kombuchas and a spirit company made multiple claims related to probiotics, vitamins, minerals and antioxidants. Producers used these claims to frame alcoholic kombucha as a healthy option, with statements like “if you are going to drink alcohol, you might as well pair it with probiotics, organic acids, enzymes and vitamins”¹¹

Nutrition claims often appeared on the FAQ pages of alcoholic kombucha producer websites with questions such as “Is this product healthy?”¹² and “Is hard kombucha good for you?”¹³ In several cases, alcoholic kombucha companies used the “health benefits of kombucha” to indirectly link health benefits to their alcohol products.



Protein claims

The final two types of claims we observed were for protein, including collagen specifically. One RTD company promoted their products as containing collagen and explicitly claimed collagen contributes to hair, skin and nail health. A second company produces a “protein and collagen infused vodka seltzer”. In addition to their product website, the claims are present on social media accounts on Instagram, Facebook and TikTok.



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Does alcohol cancel out the effects of collagen? ^

No, not when the cocktails are consumed prior to the Best Before date.

Complaints lodged about prohibited health and nutrition claims

We lodged complaints about 15 alcohol companies using prohibited health or nutrition claims to the relevant regulators: eight in New South Wales; two each in Queensland, South Australia and Victoria; and one in Western Australia (Table 1). In most cases, a state health or food safety department were responsible for enforcement of the FSANZ Code. In two cases, our complaint was referred to a local council.

Several months after complaints were lodged, we found that most companies still had prohibited claims visible on their advertising material.

Only two companies appeared to have completely removed prohibited claims from their marketing material while nine continued to use prohibited claims. Four companies had inconsistently removed claims, with claims being removed from some but not all advertising.

For example, eBeer is a beer manufacturer that promotes their beer as containing electrolytes, which is a prohibited nutrition content claim. When we lodged our complaint, electrolyte claims were visible across the producer's website, Facebook and Instagram posts, in digital advertising and on the product label. As of July 2024, electrolyte claims were removed from the company's website but remained visible in social media posts on the company's profile and in recent paid social media advertisements by the company.



Table 1: Overview of health and nutrition claims on alcoholic products with complaints lodged

Date complaint sent	Company (specific product)	Product type	Jurisdiction	Reason for complaint	Claim location	Outcome as of July 2024	Outcome as of December 2024	Outcome description
9/10/2023	<u>South Avenue</u>	Seltzer	SA	Electrolyte claim	Product descriptions and images on website, FAQ page on website, outdoor advertising posters, Instagram bio and posts.	Claims partially removed.	Remaining claims not removed.	Claims removed from Instagram and product pages, but not from website FAQ.
11/10/2023	<u>Gee Up</u>	RTD	VIC	Electrolyte claim	Product descriptions and images on website, posts on Instagram, Facebook and TikTok, Meta ads.	No claims removed.	No claims removed.	
24/10/2023	<u>Good Drinks Australia (Rider Lite)</u>	Beer	WA	Electrolyte claim	Product descriptions and images on website, digital advertising materials.	All claims removed.		
1/11/2023	<u>eBeer</u>	Beer	SA	Electrolyte claim	Product descriptions and images on website, company website home and product pages, Instagram bio and posts, Meta ads.	Claims partially removed.	Remaining claims not removed.	Claims removed from website, but product images in social media posts and ads show claim on label.
3/11/2023	<u>Modus Beer (Perky Seltzer)</u>	Seltzer	NSW	Electrolyte claim	Company website, Instagram reel, news article about the product.	No claims removed.	Claims partially removed.	Claims removed from website but remain on social media post.
3/11/2023	<u>Salty Lips Seltzer</u>	Seltzer	QLD	Electrolyte claim	Product descriptions on company website, Instagram bio and posts.	All claims removed.		
9/11/2023	<u>Easy Seltzer</u>	Seltzer	QLD	Electrolyte and hydration claim	Instagram bio and posts, news article about the product.	No claims removed.	Claims partially removed.	Electrolyte claims removed but claims about hydration remain on social media posts and images of product labels.
14/12/2023	<u>Vodka Pro Australia</u>	Seltzer	VIC	Protein claims	Product images on website, website home page, bio descriptions and company posts on Instagram, TikTok, and Facebook.	No claims removed.	No claims removed.	
15/12/2023	<u>Bower</u>	Alcoholic kombucha	NSW	Nutrition content claims (probiotics, organic acids, enzymes, vitamins, antioxidants) and health claims ('healthiest alcohol', gut health, immune boosting)	Company website FAQ and About page, Instagram bio and posts shared by retailer.	No claims removed.	Claims partially removed.	Claims removed from website (website is no longer available) but remain on social media posts.
15/12/2023	<u>Saint and Sinner</u>	Alcoholic kombucha	NSW	Probiotic and gut health claims	Website About page, Instagram bio and posts.	No claims removed.	No claims removed.	
18/12/2023	<u>Ventura Brewing</u>	Alcoholic kombucha	NSW	Nutrition content claims (probiotics, antioxidants, vitamins, minerals, beneficial acids) and health claim ('health benefits of kombucha')	Company website FAQ page and informational 'explore' pages.	No claims removed.	No claims removed.	
18/12/2023	<u>Mate Maker Co</u>	Alcoholic kombucha	NSW	Nutrition content claims (vitamins, antioxidants)	Company website FAQ page.	No claims removed.	No claims removed.	
24/1/2024	<u>Earth Beer Company (Bush Tucker Salt Gose 4.3%)</u>	Beer	NSW	Electrolyte claim	Product descriptions on website, blog posts on company website, Instagram posts.	No claims removed.	No claims removed.	

24/1/2024	<u>Wayward Brewing Co (W Seltzer)</u>	Seltzer	NSW	Electrolyte claim	Product descriptions and images on website, Instagram posts featuring the product.	No claims removed.	Claims partially removed.	Product descriptions and images have been removed from website but claims still present on Instagram posts.
6/3/2024	<u>Glow Up Beverages</u>	RTD	NSW	Protein (collagen) claim	Company website homepage and product descriptions, Instagram bio and posts.	Claims partially removed.	Claims partially removed.	Claims on website and Instagram bio removed but still present in social media posts.
16/8/2024	<u>Coastal's Hard Coco Water</u>	Seltzer	NSW	Electrolyte claim	Product descriptions and About page on company website, Instagram bio and posts.	New complaint.	No claims removed.	
16/8/2024	<u>Gravity Drinks Co</u>	Seltzer	ACT	Health and nutrition content claims ('electrolytes for hydration, adaptogens for stress relief, and probiotics for gut health', 'healthier lifestyle')	Company website and blog posts on company website.	New complaint.	Claims partially removed.	Blog posts have been removed, although website still claims the product is "better-for-you" and a "healthier choice".
16/8/2024	<u>Feels Botanical</u>	Spirit	NSW	Health and nutrition content claim (vitamin c, antioxidants, hydration, vitamin B, vitamin e, magnesium, inflammation, immunity, digestion)	Company website About and informational pages, Instagram posts.	New complaint.	No claims removed.	
16/8/2024	<u>BentSpoke Brewing Co (Easy Ale)</u>	Beer	ACT	Hydration claim	Product descriptions on company website, Instagram and Facebook posts.	New complaint.	Claims partially removed.	Claims removed from company website but still on social media posts.

Discussion

We identified and lodged complaints about 15 alcohol companies using health and nutrition claims prohibited under FSANZ Code Standard 1.2.7. Health and nutrition claims were evident on producer websites, retailer product pages, digital advertisements, and social media accounts. The majority of prohibited claims were not fully removed several months after complaints were lodged with regulators.

Prohibited claims create false perceptions of healthfulness

Nutrition and health-related claims are currently prevalent on alcohol products in Australia, which includes regulated claims about sugar, energy and carbohydrate content and unregulated claims such as natural, vegan or gluten-free.¹⁴ Alcohol companies use nutrition and health-related claims to promote their products as offering a functional benefit, such as the addition of electrolytes to improve rehydration and sporting performance.¹⁵ The use of regulated and unregulated claims on alcohol products has been shown to increase perceptions of a product's healthfulness.¹⁶

Claims are often presented within the larger context of un-regulated marketing material such as imagery suggesting nature, non-health claims about feeling good ("guilt free") or having fun, or regulated and permitted nutrition content claims about energy or carbohydrates. For example, Coastal promotes their product as containing "natural coconut water, pure vodka, and real fruit juice" and claims there are "no added sugar or sweeteners, and packed full of naturally occurring electrolytes". Alcohol producer's use of words like natural, pure, and real in conjunction with sugar and electrolyte claims falsely position this product as a healthy choice. The collected marketing illustrates how prohibited claims are used alongside non-prohibited and un-regulated claims by alcohol companies to influence health-related perceptions about alcohol products.

Prohibited claims are not proactively monitored

There is limited proactive monitoring of alcohol companies for compliance with the FSANZ Code. Community members are responsible for identifying breaches of the Code and raising concerns with regulators. We found this can be challenging given the Code is enforced via each jurisdiction, across health departments, food safety departments and local councils. The public therefore need to be able to first identify what is a prohibited claim, find the relevant regulator and submit a complaint. Otherwise, alcohol companies continue using prohibited claims.

Furthermore, most alcohol companies we identified failed to fully remove prohibited claims after we raised concerns with regulators which illustrates a need for continued and proactive monitoring. Timely removal of prohibited claims is critical to minimise health and nutrition claims' impact on public perceptions of alcohol products. Since health and nutrition claims are salient in alcohol advertising through digital and social media, Australians are at risk of continual re-exposure to prohibited claims even if they have not been posted recently. For example, VodkaPro promotes their product as containing "protein and collagen" on TikTok. As of August 2024, some videos posted in June 2024 have as many as 53,800 views thanks to the TikTok algorithm continually circulating the videos through user feeds. Even though the video was posted months ago, new users may be exposed to prohibited claims about protein and collagen.

Prohibited claims undermine the integrity of the FSANZ Code

Without proactive efforts to monitor and remove prohibited claims, alcohol companies will attempt to normalise health and nutrition claims in breach of FSANZ Standard 1.2.7-4. The longer health and nutrition claims are perceived to be allowable on alcohol products, the presence of these claims can be used by the alcohol industry in attempt to justify changes to the FSANZ Code to permit their use.

For example, the alcohol industry argued that the presence of carbohydrate claims on alcohol products was reason for their continued use when the FSANZ Code provisions around health and nutrition content claims were being developed. Despite a general prohibition of health and nutrition claims for alcohol products, this led to an exemption for carbohydrate claims to be permitted for alcohol products.

Similarly, the alcohol industry are now putting forward are similar argument in the case of sugar claims. Alcohol companies have been using prohibited sugar claims for several years now and argued that as a component of carbohydrates, claims about sugar should likewise be allowed under the code. Despite FSANZ stating in its 2017 Technical Assessment that sugar and carbohydrate claims are regulated separately under the code, and therefore sugar claims are prohibited under the code, this has led to a prolonged assessment of the use of sugar claims for alcohol products with FSANZ considering potential changes to the code that would allow for these claims. During the several years of this process, alcohol companies have increasingly implemented sugar-related claims in their marketing to further entrench their use in marketing. A lack in strong and rapid action against other breaches might open a similar pathway for other prohibited claims.

Conclusion

Nutrition and health claims are largely prohibited for alcohol products, yet alcohol companies continue to use them in product marketing and labelling. Alcohol companies must be held accountable for making health and nutrition claims prohibited under FSANZ. This report has identified prohibited health and nutrition claims on alcohol products currently in market and engaged with the enforcement pathway by reporting prohibited claims to regulators. There is a clear need to ensure prohibited health and nutrition claims on alcohol products are removed swiftly and in full to uphold the FSANZ Code and minimise harm.

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