

New Zealand Nutrition and Health Claims Survey 2022

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New Zealand Nutrition and Health Claims Survey 2022 Science Impact Statement

New Zealand Food Safety (NZFS) undertook the New Zealand Nutrition and Health Claims Survey 2022 to help evaluate the impact of Standard 1.2.7 of the Food Standards Code by: a) identifying the prevalence of nutrition and health claims across 16 product categories; and b) identifying changes in the use of claims since the introduction of the standard by comparing the present findings against those of the 2014/15 and 2016/7 surveys (pre- and post-implementation of Standard 1.2.7, respectively).

The survey provided NZFS with interesting insights on the numbers of nutrition content and health claims and the most common types of such claims seen in specific categories of products in 2022. It also provided some insight into why some of the claims being made do not meet regulatory requirements, which have formed the basis of the following considerations for NZFS, to facilitate greater understanding and compliance to the regulations in the future:

- Reiterating with specific food category organisations for whom mandatory use of a Nutrition Information Panel is not usually required (for example fresh fruits and vegetables, and alcohol), what the requirements of the Food Standards Code when voluntary claims are made.
- Developing more detailed guidance for nutrition and health claims particularly in relation to:
 - ensuring nutrient levels are sufficient to meet the claim
 - the requirements for inclusions in the nutrition information panel that must be given to support certain nutrition content claims (particularly gluten (free), sodium/salt, and sugar claims)
 - the specific requirements for making claims about bioactive compounds (e.g. quantify in Nutrition Information Panel and avoid use of descriptors, such as 'high in' or 'more than')
 - the Nutrition Profile Scoring Criteria (NPSC), to determine whether the product is eligible to make a health claim or a GI/GL claim
 - the need to include dietary context statements to support any health claims
 - discouraging the use of non-specific health statements – especially on foods that do not meet the NPSC.
 - ensuring terms implying therapeutic benefits are understood and avoided.
- NZFS may contact specific companies identified in this survey who are not meeting regulatory requirements for health claims, so that they are aware of the specific issues identified in relation to their products.

NZFS is currently undertaking qualitative research with food businesses to better understand barriers and enablers for making nutrition content and health claims on foods that meet the regulatory requirements. This is expected to provide further insight and reasons for the most common types of non-compliances.

To gain greater insights on the level of understanding of the requirements for making self-substantiated general level health claims (GLHCs), NZFS is considering including all companies making GLHCs as part of the sample frame for this qualitative research. This may indicate what specific support is required for food companies to meet all regulatory requirements.

Glossary

Bioactive	Meaning a bioactive substance - refers to a property of food that is not mentioned in Column 1 of Schedule 4—3 in the Food Standards Code. Examples include probiotics, prebiotics, antioxidants.
DI	Daily Intake
FODMAP	Fermentable Oligosaccharides, Disaccharides, Monosaccharides And Polyols
FSANZ	Food Standards Australia New Zealand
FSC	Australia New Zealand Food Standards Code
GI	Glycaemic Index
GLHC	General Level Health Claim
HLHC	High Level Health Claim
HSR	Health Star Rating
NCC	Nutrition Content Claim
NIP	Nutrition Information Panel
NPSC	Nutrient Profiling Scoring Criteria
NZFS	New Zealand Food Safety (Ministry for Primary Industries)

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1. Executive Summary

Nutrition and health claims have been regulated by Standard 1.2.7 of the Food Standards Code since 2016. Standard 1.2.7 was introduced in 2013, followed by a three-year transition period.

This study aims to evaluate the impact of Standard 1.2.7 by identifying the prevalence of nutrition and health claims across 16 product categories and identifying changes in the use of claims since the introduction of the standard by comparing the present findings against those of the 2014/15 and 2016/7 surveys (pre- and post-implementation of Standard 1.2.7, respectively).

Packaged food labels (700) were randomly selected from 16 prespecified categories in the GS1® NZ's On Pack label database, representative of foods and beverages available in the New Zealand retail sector. Labels were assessed for presence of nutrition and health claims, they were analysed by type, and assessed against the requirements of the Food Standards Code.

The results of this survey showed the total number of products carrying one or more nutrition or health claim has decreased compared to the 2016/17 survey. Forty four percent of products had at least one nutrition content claim (NCC) or general level health claim (GLHC), compared to 56% in 2016/17. However, the total number of claims made on individual products had increased. Products had up to 20 NCCs and one product had 13 GLHCs.

Since 2016/17, the proportion of products carrying claims increased among the categories "meat and meat products", "dairy and dairy products", and "eggs". Among the remaining 13 categories, the prevalence of claims decreased, except "sauces and spreads" which remained the same.

NCCs appeared in 43% of products, but among categories this ranged from 10% (alcohol) to 70% (special purpose foods). "Vitamin" (most commonly vitamin C and B vitamins) was the most common NCC and has increased in prevalence. "Gluten free" was the second most frequently found NCC and appears to be used as often as it was in 2016/17. Other NCCs that seem to be increasing in market relate to "Minerals" (most commonly iron or calcium) and "Protein". This survey suggests "dietary fibre" claims have decreased; however, the use of "bioactive substance" claims has increased. The most common bioactive substance claimed was "probiotics", while "prebiotics/prebiotic fibre" (along with "Antioxidants") were the second most common "bioactive substance" claim. Therefore, some dietary fibre claims may be captured as prebiotic claims.

Use of GLHCs has increased since 2016/17 (6% of products compared with 3%), with the highest prevalence in "special purpose foods" (40%). The majority (66%) of GLHCs were pre-approved GLHCs listed in Schedule 4—5 of the FSC.

In 2022 six high level health claims (HLHC) were found, and two claims considered to be therapeutic were found. No HLHCs or therapeutic claims were found in previous surveys.

The proportion of NCCs that met requirements was high, at 81%. This is similar to the 2016/17 where 85% met requirements, and both are considerably higher than the baseline survey where 57% met requirements.

The most common reason NCCs did not meet requirements was due to lacking the required information about the claim in the nutrition information panel (NIP). This accounted for 67% of NCCs that did not meet requirements while only 14% related to level of nutrients not meeting required levels (either too high or too low) for the specified claim.

Of the 78 GLHCs found, 45% met all requirements. This is lower than 2016/17 when 51% met all requirements. The most common reason for GLHCs not meeting requirements was the presence of claims that would require self-substantiation (i.e not pre-approved), but which had not been notified to Food Standards Australia New Zealand (FSANZ) or NZFS. Notifying claims to FSANZ (or NZFS for Supplemented Foods) is a requirement for making a self-substantiated claim.

A smaller number of GLHCs were not supported by the required dietary context statement, or the product carrying the GLHC did not meet requirements of the nutrient profiling scoring criteria (NPSC).

One HLHC met all requirements. Five HLHCs did not meet requirements as they were not pre-approved claims. The two claims for a therapeutic benefit also did not meet requirements since such claims are not permitted on any foods.

This survey provides useful insights on the use of NCCs and GLHCs and identifies trends in their use on labels compared with previous years. Common reasons for not meeting requirements have been identified across product categories, which may help inform specific areas for further education and guidance materials, or indicate where further regulatory focus should occur.

2. Background

2.1 Research Goal

The goal of this research was to take a representative sample of food products available for retail sale in New Zealand, assess the product labels for presence of nutrition and health claims, and assess all claims against the requirements of the Australia New Zealand Food Standards Code (Food Standards Code).

Specifically, claims were assessed under requirements of Standard 1.2.7 *Nutrition, health and related claims*, but also under further labelling requirements of the Food Standards Code (as outlined in the methodology) that have relevance to claims.

Information collected was both qualitative and quantitative and was compared with the results of two previous similar surveys. A baseline survey was completed in 2014-15 during the transition phase when Standard 1.2.7 first came into effect but was not being enforced. A second survey was completed in 2016-17 to assess claims present when the Standard was initially fully enforced. This current survey builds on the results of the two previous surveys.

The secondary purpose is to use the information to help provide guidance on areas of the Food Standards Code where more guidance is required.

2.2 Primary Research Objectives

1. Undertake a survey of food products across different product categories available for retail sale in New Zealand in 2022.
2. Identify any nutrition content claims, health claims, or related claims made on the product label.
3. Identify the type and number of nutrition content and health-related claims made, within each category and across the full sample.
4. Determine whether the label claim(s) meet the requirements of Standard 1.2.7 and any other relevant Standards (and Schedules) within the Food Standards Code.
5. Complete an analysis of all claims to determine how many do meet requirements.
6. Identify any key changes or trends in the presence of claims in market and how these claims meet (or do not meet) requirements, compared with the previous survey in 2016-17 when Standard 1.2.7 came fully into effect.
7. Inform stakeholders of findings and identify the opportunity for ongoing guidance or clarification of requirements.

2.3 Background on Standard 1.2.7

Standard 1.2.7, when it was first introduced in 2013, presented a significant change in the regulation of health claims and nutrition content claims in New Zealand and Australia. It was developed to provide clarity on which claims are acceptable and the conditions to meet when making such claims. It also provides a framework for food businesses to follow if they choose to substantiate their own food-health relationships (the basis for a general level health claim).

The new standard came into effect with a three year transition period, ending in 2016. From that time, all claims on food labels for retail sale in New Zealand and Australia have been required to meet the new Standard.

The following claims are provided for in Standard 1.2.7:

Nutrition Content Claims (NCCs) are claims about the presence or absence of certain nutrients or substances in a food. These claims need to meet certain criteria that are set out in the Standard (and relevant Standards and Schedules). For example, to claim “*high in calcium*” the food must contain at least a minimum level of calcium per serve, as specified in the Code.

Health claims refer to a relationship between a nutrient or substance in a food and a health function, rather than a statement of content. There are two types of health claims:

1. **General level health claims (GLHCs)** - refer to a nutrient or substance in a food and its effect on a health function. They must not refer to a serious disease or to a biomarker of a serious disease.

An example of a permitted GLHC is: “*calcium is necessary for normal bone structure*”

2. **High level health claims (HLHCs)** refer to a nutrient or substance in a food and its relationship to a serious disease or to a biomarker of a serious disease.

For example: “*diets high in calcium may reduce the risk of osteoporosis in people aged 65 years and over*”.

An example of a biomarker claim is: “*phytosterols may reduce blood cholesterol*”

Note: Claims on foods are prohibited from being therapeutic in nature. That is, claims must not refer to the prevention, diagnosis, cure or alleviation of a disease, disorder or condition.

3. Methodology

This survey methodology was similar to that of the two previous surveys.

The baseline survey (2014/15) can be found [here](#).

The post-implementation survey (2016/17) can be found [here](#).

This allows for comparison of findings and identification of any trends. However, there were some differences in methodology between the previous two surveys and the present survey. These are identified where relevant in the following sections.

3.1 Identification of food groups

Packaged food labels (700) were randomly selected from 16 prespecified categories in the GS1® NZ's On Pack label database, representative of foods and beverages available in the New Zealand retail sector. The Ministry for Primary Industries has access to specified information within GS1 under a licensed agreement.

GS1® NZ's On Pack label database

The GS1® NZ's On Pack label database is an inventory of label information from approximately 47,000 packaged food products that are or were available in the New Zealand market. The database includes images of products and digitised label information including ingredients lists, nutrition information, allergens, country of origin, and claims.

The database predominantly includes food product information from the two major supermarket chains and represents approximately 67% of total food sales. It also has limited data from other retailers, such as liquor stores and specialty stores where there has been specified collection activity. Data comes into the database through the following channels:

- physical product received by GS1 through [ProductFlow](#)
- through an in-market collection programme (audit or in-market collection)
- directly from the supplier (in select cases)

In the previous two surveys, product label information was accessed from Nutritrack, an online inventory of manufactured and packaged foods, owned by the National Institute of Health and Innovation at the University of Auckland. Nutritrack provided information for 15 food categories, and for the previous two surveys additional in market images were taken for products outside of Nutritrack in the categories of 'fresh fruits and vegetables' and 'alcohol'. Therefore, in the two previous surveys there were 17 food categories assessed and reported on.

GS1® NZ's On Pack label database provides a complete database of all foods, including packaged and labelled fresh fruits and vegetables and alcoholic beverages. In this survey there are 16 total food categories assessed and reported on, as all fruits and vegetables are included within one category (fresh, labelled, and packaged (including frozen and canned)).

For consistency, the 2013/14 and 2016/17 survey data for 'Fruit and vegetables - packaged' and 'Fresh fruits and vegetables' has been combined when making comparisons with the present survey data for fruits and vegetables.

All other food categories were matched as closely as possible to the categories previously used.

3.2 Sample size of food product categories

In this 2022 survey, a total of 700 products across all 16 categories were assessed. The total number of products selected in the previous two surveys was 681 (in 2016/17) and 683 (in 2014/15).

All products within each category that had been sold in market within the previous 12 months were downloaded from the GS1 NZ On Pack label database into Excel format. Multipacks and multiple serve sizes of one product were removed to reduce overrepresentation. Once total category size was determined, proportional sample sizes were determined for each category as per previous surveys.

There was one amendment to the determination of sample size made in the alcohol category. The total number of alcohol products was very high, which would

have reduced the number of products for assessment in other categories. The use of most claims is not permitted on alcoholic beverages, so the sample size for this category was capped to align with the previous two surveys, at 40 products. The remaining 660 products in the sample were allocated proportionally to each of the remaining 15 categories based on overall category size (total number of products). For example, bread and bakery products represented 10% of the total number of individual products in the GS1 NZ On Pack label database sold in the previous 12 months, so 10% of the 660 products (66) were randomly selected to be assessed.

Table 3.1: Sample size of food product categories

Food product category	Sample size (number)		
	2014 Nutrtrack Baseline	2016 Nutrtrack Post-implementation	2022 GS1 Follow up
Breads and bakery products	67	70	66
Cereals and cereal products	59	61	43
Confectionery	34	34	43
Convenience foods ¹	31	30	56
Dairy and dairy products ²	75	77	75
Eggs	5	5	6
Edible oils	13	13	6
Fruits and vegetables - all ³	115	111	84
Fish and seafood products	21	20	21
Meat and meat products ⁴	46	44	43
Non-alcoholic beverages	57	56	94
Sauces & spreads	75	70	56
Special purpose foods ⁵	17	19	20
Snacks	16	19	26
Sugars and honey	12	12	21
Alcoholic beverages ⁶	40	40	40
Totals	683	681	700

Notes

1. Includes soups, ready meals, dumplings, pies
2. Includes non-dairy alternatives
3. Includes all forms of fruits and vegetables (excluding drinks), legumes, nuts, seeds and spices
4. Includes non-meat alternatives
5. Includes sports foods, supplemented foods, protein bars, infant foods and formula products
6. Included beer, wine and ciders and non-alcoholic varieties only (spirits and ready-to-drink variants were excluded)

3.3 Data collection

An online random number generator was used ([Research Randomizer](#)) to randomly select the products to be assessed.

Using barcode numbers, the product information was viewed online in the GS1 NZ On Pack label database. Photos of product labels were also viewed, and the recorded information was captured for assessment. All product information included in the GS1 NZ On Pack label database was also reviewed.

In rare instances where a product was selected but had a fully non-complaint label (for example, not in English), the barcode was noted and the next product in the spreadsheet was selected for assessment in its place.

Any claims present were recorded, analysed, and assessed for meeting requirements of the Food Standard Code. In particular the requirements of Standard 1.2.7 *Nutrition, health and related claims* were assessed, but also related requirements, including (but not limited to) Standard 1.2.8 *Nutrition Information Requirements*, relevant Standards within Part 2.6 *Non-alcoholic beverages*, Part 2.7 *Alcoholic beverages*, and Part 2.9 *Special Purpose Foods*. Assessment also required reference to Schedule 1 *RDIs and ESADDIs*, Schedule 4 *Nutrition, health and related claims*, and Schedule 5 *Nutrient profiling scoring method*. The New Zealand Food (Supplemented Food) Standard 2016 was also referred to for foods categorised as supplemented foods. A checklist created by New Zealand Food Safety, (and previously used in surveys 2014/15 and 2016/17) was also used to ensure labels were compared to all relevant parts of the Food Standards Code. (see Appendix 1).

Table 3.2 lists the information collected from each of the 700 products assessed.

NPSC was calculated using the online [FSANZ calculator](#) when required, using information from product labels, including NIP and ingredients lists.

The assessments of all products were completed by three project team members from Foodcom. Most categories were split into subsections so assessments in each category were shared among all three team members, allowing for wider discussions to ensure consistency. A random selection of product assessments was peer reviewed internally (six percent of the total sample).

Any claims where the assessment result was unclear were subject to discussion at regular review meetings with the New Zealand Food Safety project team to gain consensus and agreement.

All information was analysed, collated and summarised to report the main findings by food category. Analyses

and summaries were consistent with the 2016/17 and 2014/15 reports so comparisons could be made.

Further analyses were completed to ascertain the main reasons for claims not meeting requirements. This provides an opportunity for future guidance to address the most common areas of misunderstanding.

Only product labels and associated information in the GS1 NZ On Pack label database were assessed in this survey, as per previous surveys. No other aspects of product promotion were reviewed (for example websites, social media channels or print advertising).

Table 3.2: Information collected from all products (n=700)

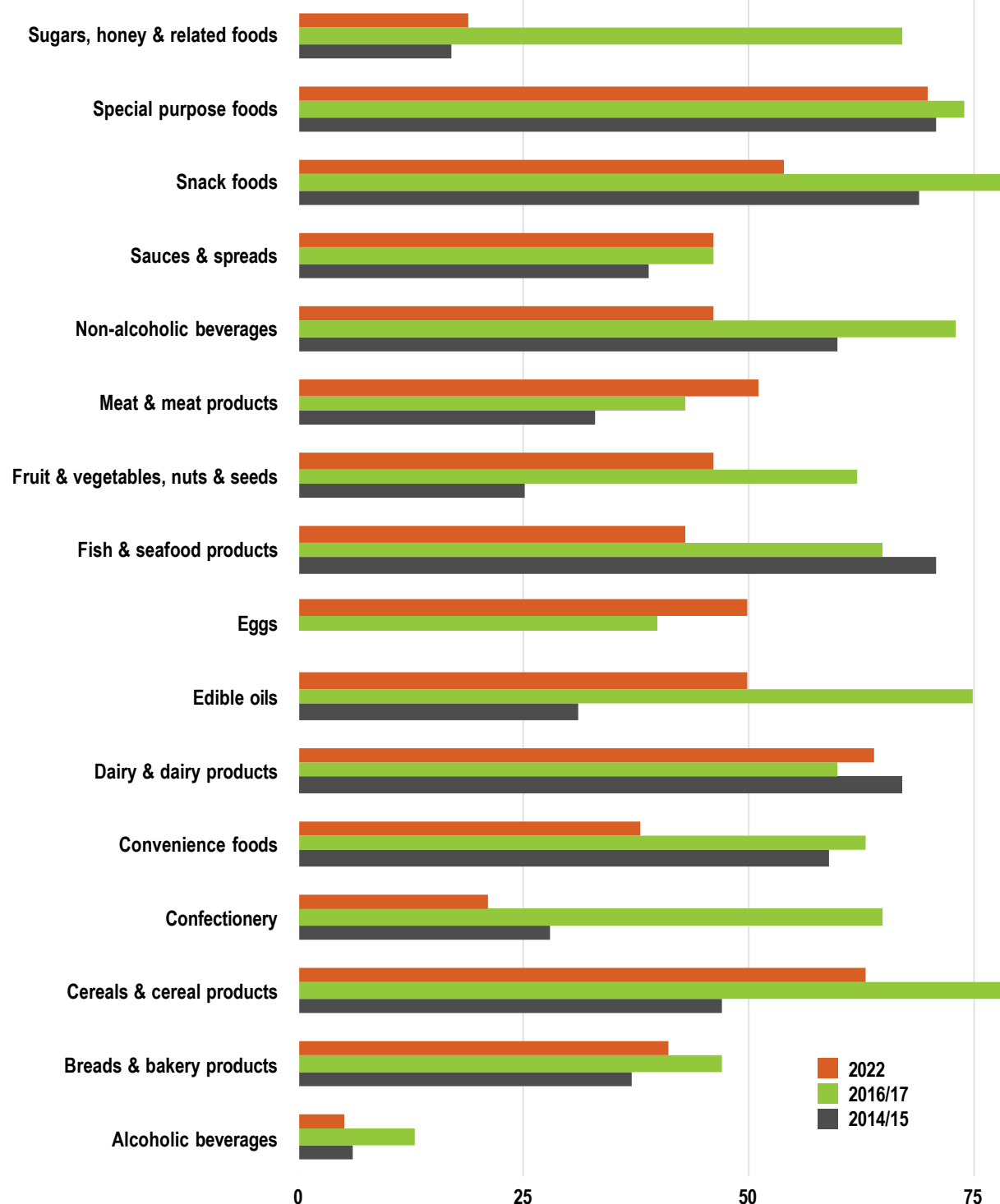
Data collected	Information assessed against requirements of the Food Standards Code (relating to claims)
Barcode	n/a
Category	n/a
Sub-category	n/a
Brand	n/a
Product name	n/a
Nutrition Content Claims (NCCs)	Yes
Nutrition Information Panel (relevant to claims)	Yes
NCC compliance	Yes
General level health claims (GLHCs)	Yes
GLHC pre-approved, or notified (self substantiation)	Yes
Nutrient Profiling Scoring (NPSC) when health claim made	Yes
NPSC compliance	Yes
Presence of Dietary Context Statement	Yes
GLHC compliance	Yes
High level health claims (HLHCs)	Yes
HLHC compliance (pre-approved)	Yes
Therapeutic claims	Yes
Endorsements (health related)	Yes

N/a = not applicable

4. Results and Discussion

This survey successfully achieved its primary research goal: to collect and analyse information on nutrition and health claims on a sample of 700 foods and beverages available for retail sale in New Zealand, and to assess those claims against the requirements of the Food Standards Code. Findings were mainly compared to those from the last Nutrition and Health Claims survey in 2016/17. Because the 2014/15 survey was undertaken during the transition period for Standard 1.2.7, it is more appropriate to compare current 2022 results with those from 2016/17, post-implementation of Standard 1.2.7. Where appropriate, however, comparisons with the baseline survey are also made.

Figure 4.1: Percentage of products in all categories making NCCs in 2022 compared to previous surveys in 2014/15 and 2016/17.



Note: There were only six products in the *Eggs* and also the *Edible oils* category in the present survey, so apparent changes over time may not represent a real change.

4.1 Nutrition Content Claims (NCCs)

4.1.1 Nutrition Content Claims overview

In total, 700 product labels were assessed. Of these, 304 products (43%) had one or more NCC on their label. This proportion is slightly lower than in 2016/17, when 56% (384) of the products displayed one or more NCC on their label; but is comparable to the baseline survey (in 2014/15), when 42% (289 of 683) products contained NCCs on their label.

The total number of NCCs found was 748, and the total number of products carrying at least one NCC was 304. The average number of claims per product with NCCs was 2.5.

The highest number of NCCs on one product was 20. This was found on a *Special Purpose Food*. One *Egg* product carried 19 NCCs. Previously the most NCCs found on one product was 16: on a *Cereals and Cereal Product* in the 2016/17 survey.

4.1.2 Nutrition Content Claims by category

In the present survey, the category with the highest proportion of products with NCCs was *Special Purpose Foods* (70%), followed by *Dairy and Dairy products* (64%) and *Cereals and Cereal Products* (63%) (Figure 4.1).

Consistent with the 2016/17 survey, NCCs were found on labels in all product categories, but there were some changes in the proportion of product labels carrying claims. For many categories, the proportion of products with NCCs on labels was lower in the present survey than in 2016/17. The largest differences between surveys were in the categories: *Sugars, Honey and Related Foods* (19% of products with NCCs in 2022 compared with 67% in 2016/17) and *Confectionery* (21% of products with NCCs in 2022 compared with 65% in 2016/17). Compared with the 2016/17 survey, the only categories in which a larger proportion of products had NCCs on their labels were: *Dairy and*

Dairy Products, Meat and Meat products, and Eggs. In *Sauces and Spreads*, the proportion of products with NCCs was the same between this survey and the 2016/17 survey (46%).

4.1.3 Nutrition Content Claims – analysis by claim

To determine the most common NCCs found on labels, all claims have been totalled by type, and some have been grouped such as “vitamins” and “minerals”. This is consistent with the previous surveys. For example, if a product claimed ‘a source of vitamin C, folate and vitamin B₂’, this statement would be assessed as three NCCs.

The ten most common types of NCCs accounted for 95% (713 individual NCCs) of all claims found. Within ‘bioactives’, most claims related to probiotics (36%) followed by ‘prebiotics/prebiotic fibre’ (19%) and ‘antioxidants’ (19%). Five percent related to amino acids, and 3% related to each of lutein, zeaxanthin, lycopene and guarana.

Table 4.1 shows the ten most commonly used claims, but there were a few other NCCs found in this survey in very small numbers. These claims were about carbohydrates, cholesterol, glycaemic index, lactose (free), energy, omega 6 and alcohol, and they accounted for less than 6% of the total NCCs found.

The previous report from 2016/17 listed the ten most common types of NCCs. In descending order from the most common, these were: %DI thumbnails, gluten free, dietary fibre, vitamins, minerals, fat, sugar, protein, sodium and cholesterol. Eight of the top ten most common NCCs from 2016/17 were also in the ten most common claims in the present survey. Since 2016/17, NCCs for probiotics, omega 3, prebiotics, and antioxidants have increased in prevalence, while NCCs for cholesterol and %DI no longer feature in the ten most common NCCs.

Table 4.1: Ten most common types of NCCs across all categories in 2022

Type of claim	Number
Vitamins (mostly vitamins C & B vitamins)	142
Gluten free	138
Minerals (mostly iron & calcium)	118
Sugar (low sugar, reduced sugar, no added sugar)	63
Protein (source of, high in)	61
‘Bioactives’ (mostly probiotics [21], prebiotics [11], antioxidants [11])	59
Fat (fat free, low fat, less fat)	57
Bioactives (mostly probiotics, prebiotics, antioxidants)	59
Dietary fibre (source of, high in)	47
Omega 3 (source of, high in)	14
Salt/Sodium (no added salt, low sodium)	11

A note on %DI Thumbnails

Prior to the implementation of the Health Star Rating (HSR) system, an industry-led initiative saw the development of a thumbnail-style front of pack icon, presenting percentage of Daily Intake values for energy and sometimes other nutrients. This was known as “%DI thumbnails” and these were considered to be NCCs. At the time of the 2016/17 survey %DI thumbnails were the most commonly found NCC.

Now with greater uptake of the Government-led HSR system, industry has agreed to phase out the use of the %DI thumbnails, and in the present survey very few were found (n=2). Unlike the %DI thumbnails, HSR logos are not considered to be NCCs.

To facilitate comparison between the present survey and the 2016/17 survey, the total number of the eight most frequently found NCCs in common between the two surveys are compared: there were 639 in 2022 and 552 in 2016/17. This comparison provides an estimation of change only, since the 2022 dataset had 700 products surveyed, compared with 681 for the 2016/17 survey.

Since 2016/17, NCCs for dietary fibre appear to have substantially decreased, while claims for vitamins appear to have become most popular (Table 4.2).

Table 4.2 indicates since the 2016/17 survey, some types of claims have continued to be used consistently, and some have either increased or decreased in popularity. The use of claims about ‘gluten free’, ‘sugar’ and ‘fat’ have remained similar. ‘Vitamin’ claims have become more prevalent (142 claims in 2022 and 87 claims in 2016/17), also ‘protein’ claims (61 claims in 2022 and 38 claims in 2016/17), and ‘mineral’ claims (123 claims in 2022 and 75 claims in 2016/17); while ‘dietary fibre’ claims are less prevalent (47 claims in 2022 and 104 claims in 2016/17), also ‘sodium/salt’ claims (11 in 2022 and 26 in 2016/17).

It should be noted in the present survey claims about ‘prebiotic fibre / prebiotics’ were captured within the ‘bioactives’ category for claims, rather than within ‘dietary fibre’. Claims about ‘prebiotics/prebiotic fibre’ make up 19% of the ‘bioactives’ claims (11 claims). The total of prebiotic claims and dietary fibre claims is 58 which is substantially lower than the total number of dietary fibre claims found in 2016.

Details on the types of claims made in each category are given in section 4.1.5.

Table 4.2: Percentage of the eight most common NCCs, in common, for the 2016/17 and 2022 surveys

Type of claim	2022		2016/17	
	Number	% of total of common 8 claims	Number	% of total of common 8 claims
Vitamins (mostly vitamins C & B vitamins)	142	22	87	16
Gluten free	138	22	115	21
Minerals (mostly iron & calcium)	118	19	75	14
Sugar (low sugar, reduced sugar, no added sugar)	63	10	52	9
Protein (source of or high in)	61	10	38	7
Fat (fat free, low fat, less fat)	57	9	55	10
Dietary fibre (source of, high in)	47	7	104	19
Salt/Sodium (no added salt, low sodium)	11	2	26	5
Totals	637	100	552	100

Note: There is a small difference in total sample size of the surveys, however these results are presented as percentage of most prevalent claims within that survey.

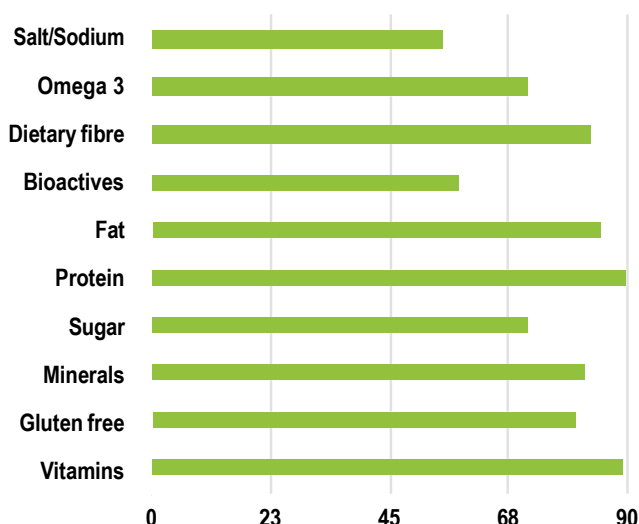
4.1.4 NCCs and requirements of the Food Standards Code

Eighty-one percent of NCCs met the requirements of the Food Standards Code (FSC), whereas in 2016/17 85% met requirements. The fact that high numbers of NCCs meet all regulatory requirements in the past two surveys indicates that the regulations and guidance material is relatively well understood by food businesses. Note that in the 2014/15 survey (during the transition phase of Standard 1.2.7) only 57% of NCCs met regulatory requirements.

Of the ten most common claims, vitamins, minerals, fat, gluten, protein and dietary fibre are accurately presented on labels in 80-90% of instances (Figure 4.2)

The reasons for claims not meeting regulatory requirements were similar to the reasons given in the 2016/17 report. The most common reason was failing to include required information in the NIP (for example, not including gluten at a level of 0 grams to support 'gluten free' claims, not quantifying the specific 'bioactive' to support a 'bioactive compound' claim, or not including dietary fibre as a requirement when making 'sugar' claims) (Table 4.3). These issues are easily corrected but this does suggest work needs to continue with food companies to help them understand and apply all requirements for the NIP when making claims. It should be noted these requirements are outlined in the FSC in

Figure 4.2: Percentage of each of the ten most common types claims that met regulatory requirements in 2022



Standard 1.2.8 rather than Standard 1.2.7; however, Schedule 4 does mention these requirements.

Of the NCCs that did not meet requirements, only 14% were due to the property of the claimed nutrient not meeting the required level to support the claim (either too high or too low). This reason for not meeting requirements appears to have decreased since the 2016/17 survey, when it was the most common.

Table 4.3: Reasons NCCs did not meet the requirements of the Food Standards Code in relation to claims

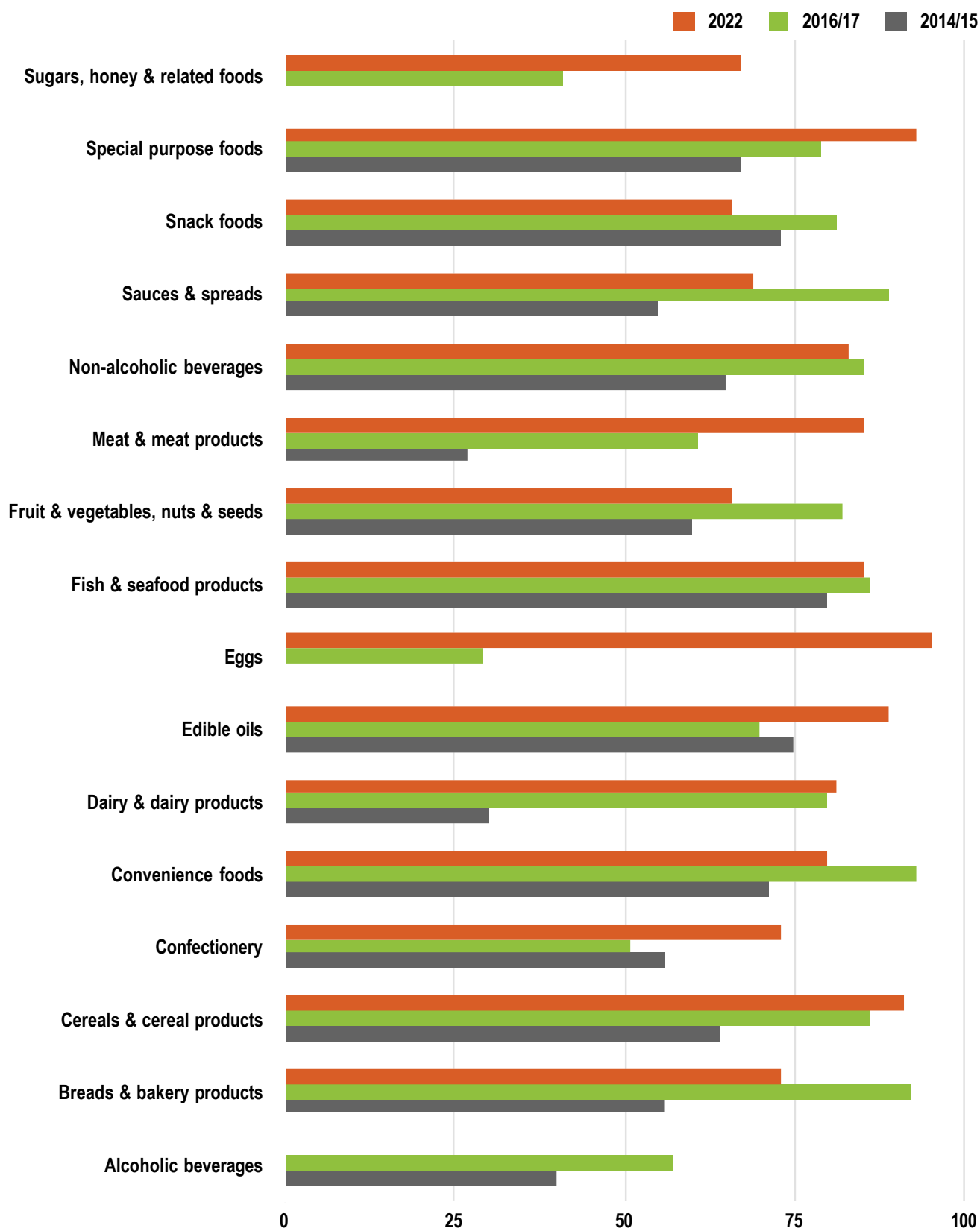
Reason	Examples / Details	% of NCCs not meeting requirements
Required information omitted from NIP	- Gluten - for gluten free claims - Bioactive compounds - need to be quantified when mentioned - Dietary fibre - for sugar claims - Fatty acids - for omega 3 claims - Vitamins and Minerals - Potassium - for salt/sodium claims - GI number - when making low GI claims	69
Wrong level of nutrients	- Too low for 'protein' or 'dietary fibre' claim - Too high for 'fat' or 'sugar' claims	14
No (or incomplete) NIP	- Products usually exempt (e.g. fruits and vegetables) but making a vitamin or mineral claim - No 'per serve' information	6
Comparative claims	Requires a reference food to be clearly stated, for example when making 'lower in sugar' type claims and a minimum level of difference	5
Sugar free' or 'refined sugar free'	On foods that contain added concentrated forms of fruit	3
NCCs not permitted	NCCs made on alcoholic beverages, or comparative claims in relation to vitamins and minerals	2
Descriptor not permitted	Claiming 'good source' on bioactive compounds	1

Figure 4.3 shows the percentage of NCCs within each category that meet the requirements of the FSC for claims. In section 4.1.5 more detail is given for each category.

In eight categories, the proportion of claims meeting requirements has increased compared with previous years. These were *Cereals and Cereal products*,

Confectionery, *Edible oils*, *Eggs*, *Meat and Meat products*, *Special Purpose foods*, and *Sugars, honey and related foods*. In most other categories, there was a lower percentage of claims meeting requirements compared to the 2016/17 survey. However, since baseline (in 2014/15) when the new Standard came into effect, there has been an overall trend toward more NCCs meeting requirements of the FSC.

Figure 4.3: Percentage of claims within in all categories that meet regulatory requirements, compared to 2016/17 and 2014/15



4.1.5 Detailed review of NCCs by category

This section reports results by category, presenting both the proportion of individual product labels containing NCCs meeting FSC requirements and the proportion of individual NCCs meeting FSC requirements. The most common NCC types are outlined, and, where relevant, so are any reasons for NCCs not meeting regulatory requirements.

1. Breads and Bakery Products

In *breads and bakery products*, 52% of product labels with NCCs met FSC requirements, and 74% of the individual claims across those products met FSC requirements.

NCCs about gluten, dietary fibre, and carbohydrate were the most common (in descending order).

The most common reason NCCs in this category did not meet requirements was missing required information in the NIP, such as fatty acids (for omega 3 & 6 claims) and gluten for gluten free claims. For some comparative claims no reference foods were mentioned.

2. Cereals and cereal products

In *cereals and cereal products*, 64% of product labels with NCCs met all requirements, and a high proportion of the individual claims (91%) across those products met FSC requirements.

The three most common types of claims, in descending order, were vitamins (mainly B vitamins), dietary fibre, and minerals (mainly iron and calcium).

A small number of individual claims (9%) did not meet requirements, usually due to required information being omitted from the NIP and levels of nutrients not meeting the quantity required for making NCCs.

3. Confectionery

In *confectionery*, 44% of the products carrying NCCs met all requirements, and 73% of the individual claims across those products were made accurately.

There were only three types of claims found in this category and they were: sugar (six claims), gluten free (four claims), and fat (one claim).

The main reason that some claims did not meet requirements was due to required information being omitted from the NIP.

4. Convenience foods

In *convenience foods*, 76% of the product labels carrying NCCs met all requirements, and 80% of the individual claims across those products met requirements.

The three most common types of claims were, in descending order, minerals (mainly iron and zinc) and gluten free, followed by protein.

The main reasons 20% of the individual claims did not meet requirements were due to required information being omitted from the NIP and levels of nutrients not meeting requirements.

5. Dairy and dairy products

In *dairy and dairy products*, 69% of those product labels with NCCs met FSC requirements, and 81% of the individual claims across those products met FSC requirements.

The three most common types of claims, in descending order, were: gluten free, minerals (mainly calcium) and 'bioactives' (mainly probiotics).

The main reasons some claims did not meet requirements were required information being omitted from the NIP and levels of nutrients not meeting the quantity required for making NCCs.

6. Eggs

This is a small category with only six products assessed. Of the three product labels carrying NCCs, two met FSC requirements, and almost all individual claims (95%) across those products met the FSC requirements.

The three most common types of claims, in descending order, were vitamins (vitamins A, D, E, and B vitamins), minerals (iron, zinc, iodine, phosphorus and selenium) and 'bioactives' (mainly lutein and zeaxanthin).

Two claims did not meet requirements, and this was because required information about the NCC was omitted from the NIP.

7. Edible oils

This is a small category with only six products assessed. Of the three products carrying NCCs, two met all requirements. Eight out of nine (89%) of the individual claims across those products met FSC requirements.

The three most common types of claims were all equally prevalent: omega 3, omega 6 and fat.

There was only one NCC in this category that did not meet requirements and that was due to a higher saturated fat level than is permitted to make an omega 3 claim.

8. Fish and seafood

In *fish and seafood*, 67% of the product labels carrying NCCs met all requirements, and 85% of the individual claims across those products met FSC requirements.

The most common claim was protein, followed by omega 3. There was only one claim each in relation to gluten, fat and 'bioactives' (lycopene).

The main reason a small number of claims did not meet requirements was required information being omitted from the NIP.

9. Fruits and Vegetables, Nuts and seeds

This was one of the larger categories (n=84). 64% of product labels carrying NCCs met FSC requirements, and 66% of the individual claims across those products met FSC requirements.

The three most common types of claims, in descending order, were: gluten free, dietary fibre and vitamins (mainly vitamin C).

This category had a higher number of claims not meeting requirements compared with most other categories. Some products did not display a NIP on pack, or the NIP did not include the required information about the amount of nutrients to support the claim (mainly relating to 'bioactives' (antioxidants), vitamins and minerals). There were also some vitamin, mineral and dietary fibre claims made where levels were not high enough to allow the claim.

10. Meat and meat products

In *meat and meat products*, 73% of product labels carrying NCCs met FSC requirements, and 85% of the individual claims across those products met FSC requirements.

The most common types of claims, in descending order, were gluten free, protein, then equal prevalence of fat and minerals (mainly iron).

The main reasons claims did not meet requirements were omitting gluten from the NIP when 'gluten free' claims were made and having levels of protein or saturated fat that did not meet the requirements associated with specific claims.

11. Non-alcoholic beverages

This is another large category (n=94). 67% of product labels carrying NCCs met FSC requirements, and 83% of the individual claims across those products met FSC requirements.

The most common types of claims, in descending order, were: vitamins (mainly vitamin C), sugar, then equal prevalence of 'bioactives' (mainly probiotics) and minerals (mainly sodium, potassium, calcium, chloride and magnesium).

The main reasons some claims did not meet requirements were failing to include dietary fibre in the NIP when making sugar claims and not quantifying 'bioactives' in the NIP. Some comparative claims did not specify reference foods, and for some the difference between the food and the reference food was not sufficient to allow a comparative claim. There was one comparative claim relating to vitamins. Comparative claims relating to vitamins and minerals are not permitted by the FSC.

12. Sauces and spreads

In this category, 73% of product labels carrying NCCs met FSC requirements, and 80% of the individual claims across those products met FSC requirements.

The three most common claims were gluten free (60% of all the NCCs in Sauces and Spreads), followed by fat and vitamins (B vitamins).

Of those claims that did not meet requirements the main reason was due to omitting required information from the NIP.

13. Snack foods

79% of product labels for snack foods carrying NCCs met FSC requirements, and 66% of the individual claims across those products met FSC requirements.

The three most common types of claims, in descending order, were: gluten free, then minerals (selenium, phosphorus, magnesium, and manganese) and fat.

Some claims did not meet requirements because required information in the NIP was omitted (to support gluten free, vitamins, minerals, and omega 3 claims), and for some claims the levels of protein or fibre were too low to support the protein or fibre content claim made.

14. Special purpose foods

79% of *special purpose food* labels carrying NCCs met FSC requirements. Most individual NCCs (93%) also met FSC requirements. This category had the highest percentage of products carrying NCCs (70%) overall, so the high level of NCCs meeting requirements perhaps indicates a good understanding of the regulatory requirements by companies marketing these products.

The three most common types of claims, in descending order, were: vitamins, minerals (the claims were in relation to a wide variety of vitamins and minerals), and protein.

The 7% of NCCs that did not meet requirements related to two instances of a low sodium claim being made without declaring potassium in the NIP, and one sugar claim did not meet requirements as the total sugar level was too high.

15. Sugars, honey and related foods

Only five products in this category (n=21) carried NCCs on product labels. Three of these five met FSC requirements. 67% of the individual NCCs across those products met FSC requirements.

Only two types of claims were made in this category: gluten free and low glycaemic index.

Three of the four gluten claims met FSC requirements, and one of the two glycaemic index claims met the requirements of the FSC of including the information in the NIP. The NCCs that did not meet requirements omitted required information in the NIP.

16. Alcoholic beverages

Only a small number of specific NCCs are permitted in this category. However this survey identified two claims on labels that did not meet requirements, one stating 'no added sugar' and the other 'lower alcohol' (comparative claims relating to alcohol are not permitted).

4.2 General Level Health Claims

4.2.1 General level health claims overview

The number of products found with general level health claims was higher in this survey compared with the previous two surveys. From the total of 700 product labels, 45 (6%) carried one or more GLHCs compared to 19 (3%) in 2016/17. These were found across 11 categories.

The total number of individual GLHCs found was 78. The highest number of GLHCs on one product label was 13 (in the *Special purpose foods* category).

4.2.2 GLHCs by category

General level health claims were found in 11 categories (compared with seven in each of 2016/17 and 2014/15). These categories were: *Sugars, honey and related foods*, *Special Purpose foods*, *Sauces and Spreads*, *Non-alcoholic beverages*, *Fruits and Vegetables*, *Nuts and Seeds*, *Edible oils*, *Dairy and Dairy products*, *Confectionery*, *Cereals and Cereal products*, *Breads and Bakery products* and *Alcoholic beverages*.

In 2016/17 there were no GLHCs found in *Sugars*, *Honey and related foods*, *Sauces and Spreads*, *Edible oils*, and *Alcoholic beverages*.

As shown in Figure 4.4, in those categories where GLHCs were found, the number of products carrying one or more GLHC has increased (compared with 2016/17) in all categories except *Confectionery*. The *Special Purpose Foods* category had the greatest increase in GLHCs: 40% of all products, compared with 21% in 2016/17.

Immediately after the transition period (in 2016/17) fewer GLHCs were present on labels, but the present survey indicates a slight increase in their use since then.

4.2.3 GLHCs most common types of claims

Of the 78 GLHCs found, the majority (48) were pre-approved GLHCs. The most common pre-approved GLHC was calcium related to bone health.

There were eleven claims in relation to individual electrolytes (including calcium, sodium, magnesium, potassium and chloride). Under Schedule 4, only magnesium and potassium have a pre-approved GLHC in relation to hydration. However, there are additional permissions within Standard 2.6.2 for products using the prescribed name "Electrolyte drink".

Figure 4.4: Percentage of products in all categories making GLHCs in 2022 compared to previous surveys in 2014/15 and 2016/17

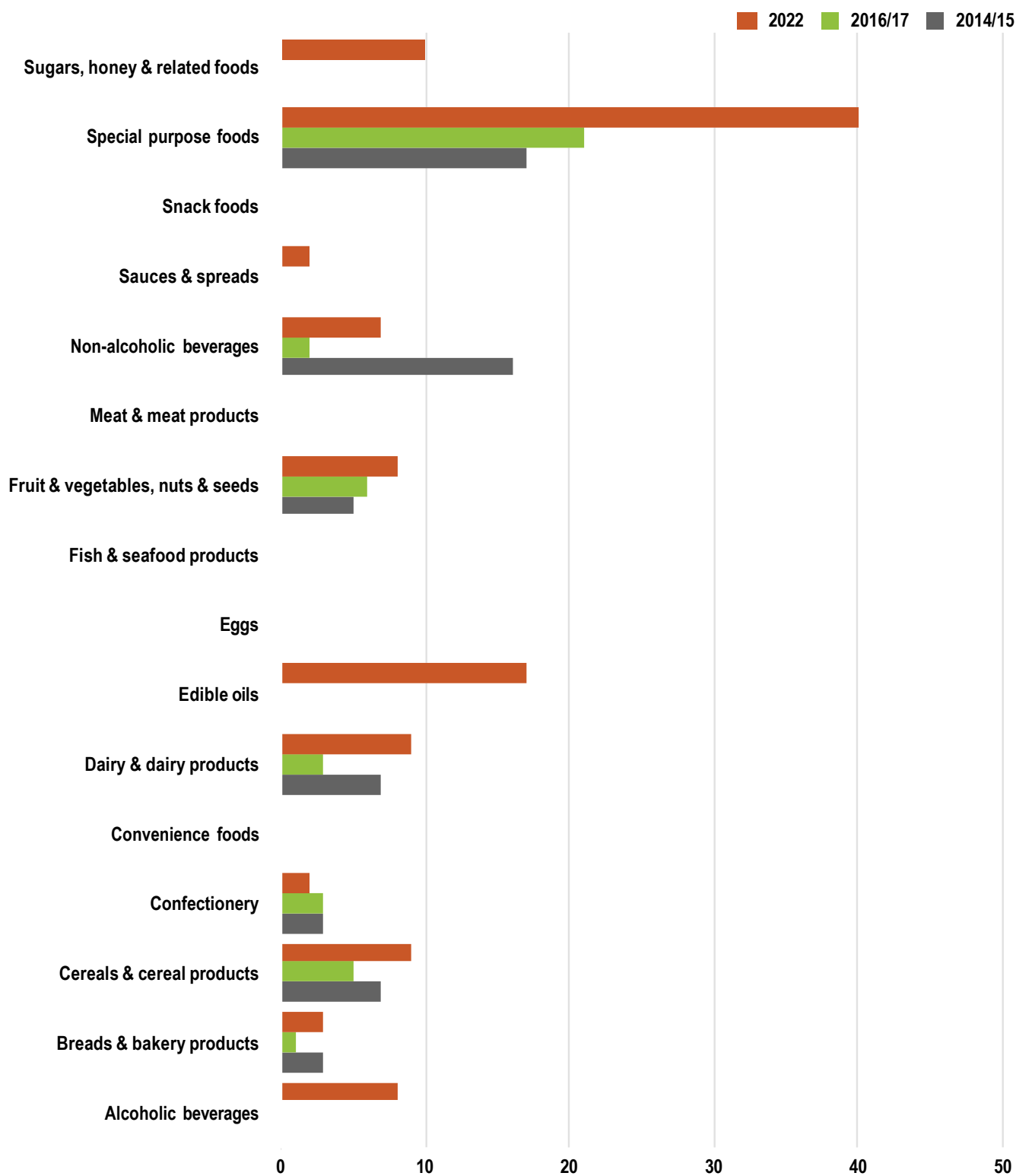


Table 4.4 focusses on pre-approved GLHCs. It shows the number of specific claims found on labels, that are pre-approved in Schedule 4 and includes permissions for electrolyte claims in Standard 2.9.2.

The remaining 30 GLHCs are considered self-substantiated claims, requiring notification to FSANZ for placement on the register of self-substantiated claims, with the exception of Supplemented Foods, for which the company is required to notify any self-substantiated claims to NZFS. Of these 30 GLHCs, five suggested the product would offer 'slow-release energy' and/or help people to 'feel fuller for longer'. There were also five non-specific GLHCs containing statements

such as 'better for you' or 'with great health benefits', and three non-specific claims in relation to benefits for digestion. Three claims related to sports recovery or performance. There were two GLHCs relating lupulin in hops for relaxation. Two GLHCs related probiotics to digestive health and a further two suggested the products were tooth friendly. There was one instance each of claims relating to: gut health, FODMAP, mental alertness, urinary tract health, muscle fuel, cleaner teeth, reduction of fatigue, and non-specific benefits for immunity. These were considered non-specific because they did not identify a specific property of the food that was responsible for the claimed health benefit, or the claimed health benefit was not specific.

Table 4.4: Summary of the pre-approved GLHCs found across all categories in 2022

Type of nutrient/food	Nutrient	Claim related to	Number
Macronutrients	Protein	Muscle growth (3)	4
		Muscle repair	
	Fibre	Laxation	1
Minerals	Iron	Growth & development (2)	4
		Reduction of tiredness & fatigue	
		Immunity support	
	Calcium	Bone health (5)	8
		Tooth structure (2)	
		Metabolism	
	Zinc	Metabolism	1
	Iodine	Metabolism	1
	Magnesium	Metabolism	1
Vitamins	Vit C	Immune support (2)	8
		Energy & fatigue (2)	
		Collagen	
		Blood vessels	
		Metabolism & fatigue	
		Antioxidant	
		Bone health	1
	Folate	Reduction of fatigue	2
		Growth & development	
	Vit B1	Brain	2
		Energy release	
	Vit B2	Nervous system	1
	Niacin	Energy release	1
Electrolytes	Vit B6	Reduction of tiredness	1
	Magnesium	Hydration	2
		Hydration	3
	Chloride	Hydration (Standard 2.6.2)	1
	Sodium	Hydration (Standard 2.6.2)	3
	Calcium	Hydration (Standard 2.6.2)	2
Chewing gum	n/a	Neutralise acids	1

4.2.4 GLHCs and requirements of the Food Standards Code

Seventy eight individual GLHCs were found, and 45% (35) of these met the requirements of the Food Standards Code (FSC). In the 2016/17 survey just over half (51%) of individual claims met FSC requirements.

Forty-three percent of all single product labels carrying GLHCs met FSC requirements for every claim on the label, which is a larger proportion than the previous survey. In 2016/17, 19 labels contained GLHCs, and 32% of these (six products) met FSC requirements for every claim on pack.

The majority (70%) of the pre-approved GLHCs found met FSC requirements which suggests the requirements specific to pre-approved claims are reasonably well understood. Similar to 2016/17, the most common reason the use of pre-approved GLHCs did not meet all requirements was omitting to include a dietary context statement on the label (required by Standard 1.2.7—20 (3)(a)).

Three products did not meet the Nutrient Profile Scoring criteria (NPSC) to allow a GLHC to be made, and one other product did not contain enough of the property of the food to allow a GLHC. There was one further product claim which did not use words to the equivalent effect of the pre-approved food health relationship: rather than 'helping to', the claim stated, 'proven to'.

Of the GLHCs that were not from the pre-approved list, the most common reason for not meeting requirements was the claim had not been notified to FSANZ or NZFS. This was the case for 29 of the 78 GLHCs. General level health claims that are not pre-approved need to be self-substantiated and then notified to FSANZ (or NZFS if they are for Supplemented Foods made according to the New Zealand Supplemented Food Standard (2016)).

The process to compile a scientific dossier to support self-substantiated claims (outlined in Schedule 6 of the FSC) is detailed and requires significant knowledge, skills and likely investment by food companies; however, NZFS provides information and guidance to support this process for NZ-based companies. The results of this survey suggest some food companies may not be aware of these regulatory requirements or the guidance available, indicating perhaps more could be done to make this information more available to food businesses, including those based in Australia who have the same regulatory requirements.

Five products carrying non-notified GLHCs also did not meet the NPSC, so they are not eligible to carry a health claim. Implying any health benefit, albeit a non-specific one, from a product that is not healthful enough to meet NPSC requirements is not permitted by the FSC. Such claims may also be considered misleading under the Fair Trading Act 1986. This Act prohibits misleading

and deceptive conduct, unsubstantiated claims and false representations.

Table 4.5 shows the percentage of GLHCs that met all requirements, by food category, in comparison to the 2016/17 survey. Only categories where these claims were found in each survey are shown.

Table 4.5: Percentage of GLHCs that met all requirements by category, compared to the previous survey in 2016/17

Category	Percentage of GLHCs meeting all requirements (total number of claims)	
	2016/17	2022
Alcoholic beverages	n/a (0)	0% (3)
Breads & bakery products	67% (3)	0% (3)
Cereals & cereal products	43% (7)	56% (8)
Confectionery	0% (1)	0% (2)
Dairy & dairy products	0% (2)	50% (8)
Edible oils	n/a (0)	0% (1)
Fruit & vegetables, nuts & seeds	0% (8)	64% (11)
Non-alcoholic beverages	91% (11)	19% (16)
Sauces & spreads	n/a (0)	100% (4)
Special purpose foods	25% (12)	56% (20)
Sugars, honey & related foods	n/a (0)	0% (2)

Notes

- n/a means 'not applicable' as no GLHCs were found in this category in that survey.
- There are no results shown in this table for the 2014/15 survey as no health claims met requirements of the Food Standards Code at that time, being a baseline survey.
- Because of the small numbers of claims in some categories the percentages meeting and not meeting requirements do not indicate trends (e.g., 0% of claims meeting requirements may only relate to one or two individual claims in some cases). This is why data on the total number of claims in each category is included.

4.2.5 GLHCs detailed review by category

For each category, this section reports the number of GLHCs meeting requirements, the most common GLHCs, and the reasons for GLHCs not meeting requirements, where relevant.

1. Breads and Bakery Products

There were three GLHCs in this category:
“Without side effects – low FODMAP”
“Lupin sustains energy levels for longer without spiking blood sugar”
“We have taken out the gluten to make you feel good... to make our products as healthy as we can”

None of these claims met FSC requirements. The product claiming to ‘make you feel good’ did not meet the NPSC requirements for a GLHC (so is considered misleading), and none of the three claims were pre-approved or notified to FSANZ.

2. Cereal and Cereals products

Five out of eight GLHCs in this category were pre-approved claims that met FSC requirements. These were about fibre, protein, iron and B vitamins (folate and thiamin) and various health effects.

One claim implied the oats in the product would provide slow-release energy for fullness. This is not a pre-approved claim for oats and has not been notified as self-substantiated. Another claim related probiotics to a healthy tummy, and it was not notified as self-substantiated. The third claim related fibre to healthy digestion and this was not notified as self-substantiated. The only pre-approved GLHC relevant to dietary fibre is in relation to laxation, which is more specific than ‘healthy digestion’.

3. Confectionery

This category presented as 100% of GLHCs not meeting requirements, but there was only one product found with GLHCs, a chewing gum, carrying two claims. There are two pre-approved GLHCs in relation to chewing gum: helping neutralise plaque acids and contributing to the maintenance of tooth mineralisation. However, the claims on pack did not have equivalent meaning to these pre-approved claims. One claim stated “Chewing sugarfree gum is proven to benefit dental health” (which is not as specific as the pre-approved claims), and the other stated that the product would “keep teeth clean”.

4. Dairy and Dairy products

Four claims (50%) within this category were pre-approved GLHCs that met FSC requirements. They were in relation to calcium, vitamin D and protein and various health effects.

Two products made non-specific claims; ‘a

better choice’ and ‘the goodness of high quality probiotics’; however, they did not meet the NPSC requirements to make a GLHC. Another product made a claim about a healthy digestive system, but it was not pre-approved or notified as self-substantiated. One product carried a pre-approved GLHC but did not include a required dietary context statement.

5. Edible Oils

This category presented as 100% not meeting requirements; however, this only represented one product with one GLHC. The claim (“with great health benefits”) was non-specific, not pre-approved, and there was no dietary context statement.

6. Fruits and vegetables, nuts and seeds

Of the 11 GLHCs found in this category, six were pre-approved claims (most were in relation to vitamin C), and all six met FSC requirements. There was one self-substantiated claim relating cranberries to urinary tract health that was notified as self-substantiated, and all other requirements were met.

Of the remaining four, there was a claim “so healthy” on a product that did not meet the NPSC criteria to make a GLHC. A potato product claimed to be ‘high in starch to stop you feeling hungry for a long time’ but this was not notified to FSANZ as a self-substantiated claim. Another product made a claim about sports performance, and this was not notified as self-substantiated. One product claimed to be ‘packed full of all the good stuff to support everyday immunity health’, but it did not specify what nutrients were present that were pre-approved to be related to immune support, and neither was it notified as self-substantiated in relation to the food itself.

7. Non-alcoholic beverages

There were 16 GLHCs found in this category and only 19% (three claims) met FSC requirements. One related vitamin C to immune benefits and two were claims about hydration in relation to sodium and potassium.

Four drinks had claims in relation to various electrolytes for hydration. Schedule 4 specifies only potassium and magnesium as eligible to use for a pre-approved GLHC for hydration. Products presented as electrolyte drinks can make further claims as expressly permitted under Standard 2.6.2, however they must be labelled as an ‘Electrolyte drink’ and meet specified

compositional requirements. Three of the drinks with claims in relation to electrolytes did not meet requirements mainly due to not carrying a dietary context statement.

One product claimed to have the “equivalent calcium content as whole milk to help build strong teeth and bones”; however, it did not include calcium in the NIP and did not include an ingredient known to provide calcium. It also did not include a dietary context statement. Two products had pre-approved GLHCs (in relation to specific vitamins for immunity, and specific B vitamins for energy), however neither included a required dietary context statement. One product made a claim implying mental alertness, but it was not notified as self-substantiated and did not include a dietary context statement.

8. Sauces and Spreads

Only one product label was found with GLHCs in this category. The label had four pre-approved GLHCs: all for B vitamins. All FSC requirements were met.

9. Special Purpose Foods

Seven product labels carried one GLHC, and one product label carried 13 different GLHCs. Of the 20 total GLHCs, 12 were pre-approved and 11 of these met FSC requirements.

One product label claimed protein for muscle growth and development, but it did not meet NPSC requirements to make a claim. A further two products carried claims that were neither pre-approved nor notified as self-substantiated; nor did the products meet NPSC requirements to make a claim.

The product carrying 13 GLHCs was labelled as a Supplemented food. Nine claims were pre-approved. The remaining four claims required self-substantiation and had not been notified to NZFS.

10. Sugar, Honey and related products

Only two product labels contained a GLHC in this category and both related to being tooth friendly. Neither were pre-approved nor notified as being self-substantiated.

11. Alcoholic beverages

Three alcohol product labels contained a GLHC. Since health claims are prohibited on alcohol, none met the FSC requirements. Two claims related the benefit of hops in a beer product to help relaxation. A third product made a non-specific claim in relation to ‘good health’.

4.3 High Level Health Claims

Six high level health claims (HLHC) were found in the 2022 survey. No HLHCs were found in the previous two surveys.

Only one HLHC met all requirements of the FSC. It was on a *Cereal and cereal product* label which claimed the benefits of beta-glucan for helping to reduce blood cholesterol. This claim is pre-approved as all HLHCs must be.

The five HLHCs that did not meet requirements of the FSC were as follows:

- “Lupin - sustained energy which may suit diabetics” (in *Breads and Bread Products*)
- “Perfect for coeliacs ... diabetics” (in *Breads and Bread Products*)
- “Suitable for coeliacs” (in *Fruits and Vegetables, Nuts and Seeds*)
- “Antioxidants reduce the risk of heart disease” (in *Fruits and Vegetables, Nuts and Seeds*)
- “Prevents spiking of blood sugars” (in *Cereals and Cereal Products*)

The first four claims relate to suitability for specific serious illnesses, while the last claim refers to a risk factor reduction for a serious disease. None are listed as approved HLHCs in Schedule 4—4 of the FSC.

4.4 Claims implying a therapeutic benefit

Unlike previous surveys, claims implying a therapeutic benefit were found in this survey. Such claims (regarding prevention, diagnosis, cure or alleviation of an illness) are not permitted on any food and beverage products.

The two claims identified were:

- “Heals and soothes” (in *Confectionery*)
- “They contain anti-oxidants which research shows are able to inhibit the development of some cancers” (in *Fruit and Vegetables, Nuts and Seeds*)

The use of the word “heals” in the first claim, and the reference to prevention of cancers in the second claim are considered to be therapeutic benefits. Claims of a therapeutic nature can be very misleading and are therefore considered high priority for correcting by NZFS as the regulator in NZ.

5. Strengths and Limitations of this survey

5.1 Using GS1 NZ's On Pack label database

GS1 NZ's On Pack label database was used to source the label information in the present survey, while Nutritrack (University of Auckland) was used in the previous two surveys. Using GS1 New Zealand's On-Pack database meant that label information for all food categories could be accessed from the same database.

GS1 NZ's On Pack label database allows for comprehensive identification of products within one category by using multiple layers of sub-categories in the search function. It was also possible to set parameters for retail sale within the previous 12 months, at the time barcodes were downloaded from the database (June 2022).

There were some inconsistencies in categorisation of products within GS1 NZ's On Pack label database, so some manual changes were made to correct these. Prior to determining total category size, and then proportional allocation of products from the total sample of 700, a manual review of each category was undertaken. When necessary, changes were made to align products consistently – for example dumpling products were found in both 'convenience foods' and 'breads and bakery', so any dumpling products found in the 'breads and bakery' were moved into 'convenience foods'. During the label review stage, some special purpose foods were found in other general categories, but these remained and were assessed in the general category. For example, some protein bars were categorised within 'cereals and cereal products' (rather than special purpose foods), as it was not possible to change products from one category to another after the randomisation stage.

5.2 Interpreting all requirements of the FSC

All products were assessed according to the reviewers' best understanding of the requirements of the Food Standards Code, and the project team made every effort to be as accurate and consistent as possible in assessment of labels. Six percent of products were randomly selected and cross-checked to ensure a consistent approach among researchers. The FSC requirements for claims are extensive, and some wording can require interpretation. Meetings were held with the New Zealand Food Safety project team to confirm the assessment of the more ambiguous claims.

This review of claims against requirements of the FSC only considered information given on the product label. The FSC also covers further marketing of food and beverage products including advertisements and website content, but review of these materials was not within scope for this survey.

5.3 Small numbers of products/claims may not be representative

While a detailed review of 700 labels was completed, and every effort was made to proportionately randomise the products assessed for each category, 700 is a very small number of the total individual food and beverages items in market. The GS1 NZ's On Pack label database contains approximately 47,000 individual items. While this will include multipack sizes of one type of product and products no longer for sale, a sample of 700 is likely to represent less than 2% of all food and beverage products available to purchase at any one time in New Zealand. It is possible that some of the apparent changes in claim use between surveys may not represent a real change, especially when the changes are small or when the categories are small.

The alcohol category was limited to a sample of 40 products (aligning with previous surveys), rather than being calculated as a proportion of the total number of products available in GS1 NZ's On Pack label database. Therefore some types of more commonly seen claims on alcohol (e.g 99% sugar free claims on many beers) were not identified in this sample.

6. Recommendations

This survey has provided interesting insights on the numbers of NCCs and GLHCs and the most common types seen in specific categories of products in 2022. It also provides some insight into why some of the claims being made do not meet regulatory requirements. To increase the use of claims meeting requirements the following recommendations are given:

- Consider developing additional content to support the FSC that clearly outlines the requirements for inclusions in the NIP that must be given to support certain NCCs (particularly gluten (free), sodium/salt, and sugar claims).
- Work with specific food category organisations where mandatory use of a NIP is not usually required (for example fresh fruits and vegetables, and alcohol) to outline overall requirements of the FSC in relation to claims, to facilitate greater understanding and compliance to the regulations.
- Continue to communicate the requirements of the FSC overall in relation to making nutrition and health claims, but particularly in relation to:
 - ensuring nutrient levels are sufficient to meet the claim
 - the specific requirements for making claims about bioactive compounds (e.g. quantify in NIP and avoid use of descriptors, such as 'high in' or 'more than')
 - the NPSC is used to determine whether the product is eligible to make a health claim
 - the need to include dietary context statements to support any health claims (GLHC and HLHC)
 - discourage the use of non-specific health statements – especially on foods that do not meet the NPSC.
 - ensuring terms implying therapeutic benefits are understood and avoided.
- NZFS may contact specific companies identified in this survey who are not meeting regulatory requirements for health claims, so that they are aware of the issues identified. In addition, NZFS are currently undertaking qualitative research with food businesses to better understand barriers and enablers for making claims on foods that meet the regulatory requirements. This is expected to provide further insight and reasons for the most common types of non-compliances. To gain greater insights on the level of understanding of the requirements for making self-substantiated GLHCs all companies identified in this survey making GLHCs (whether these meet requirements or not) could be approached as part of the qualitative research. This may indicate what specific support is required for food companies to meet all regulatory requirements, to fill existing gaps.

7. Appendices

Appendix 1: Claims checklist, as referenced in previous surveys 2016/17 and 2014/15

Nutrition Content Claims (NCC)

1. Identify types of NCCs (tick if relevant)

- ☐ Statement (outside of NIP)
- ☐ Name of the Food (e.g. 'Diet...')
- ☐ Listed in NIP
 - volunteered item
 - exceptions (1.1.2-9(3))
 - Dietary fibre at <2g - voluntarily included in NIP is NOT a claim
 - Trans fatty acid content- voluntarily included in NIP is NOT a claim
 - Lactose content- voluntarily included in NIP is NOT a claim
- ☐ % RDI outside of NIP

2. NCC Compliance Check (circle if relevant)

NOTE: some of these will not be applicable, please delete or note if not relevant

COMPLIANT/NOT COMPLIANT NCC and form of food stated together (if applicable)

COMPLIANT/NOT COMPLIANT Property included in S4-3

COMPLIANT/NOT COMPLIANT General conditions met

COMPLIANT/NOT COMPLIANT Descriptor and specific conditions (specific conditions apply if inconsistent with general conditions)

COMPLIANT/NOT COMPLIANT Synonym/modified wording -check same meaning – does not alter the meaning or contradict with wording of the descriptor in S4-3

COMPLIANT/NOT COMPLIANT Alternative descriptors for food/property of food INCLUDED in S4-3 – permitted, includes numbers and numeric form – permitted if food/property of food included in S4-3

COMPLIANT/NOT COMPLIANT Alternative descriptors for food/property of food NOT INCLUDED in S4-3 – only permitted descriptors/synonyms are Contains, Does Not Contain, Specified Amount of property in a Specified Amount of that food, or a combination

Specific properties of food

COMPLIANT/NOT COMPLIANT Lactose – only descriptors permitted are Free and Low (galactose required in NIP and other conditions)

COMPLIANT/NOT COMPLIANT Trans fatty acids – only descriptors/synonyms permitted are Free, Low, Reduced/Light/Lite and Low Proportion (with conditions).

COMPLIANT/NOT COMPLIANT Glycaemic load/index – descriptor must be expressed as a number or in numeric form (and other conditions)

COMPLIANT/NOT COMPLIANT Gluten – only descriptor/synonyms are Free, Low, Contains Gluten, High in Gluten

COMPLIANT/NOT COMPLIANT Choline, Fluoride, Folic Acid – only permitted if a health claim is also made. Only NCC descriptor/synonyms permitted are Contains, Does Not Contain, Specified Amount of property in a Specified Amount of that food, or a combination.

Specific Claims

COMPLIANT/NOT COMPLIANT Comparative Claims – must include the claimed food together with the reference food and the difference between the amount of the property of the food in both foods [compares the nutrition content of one food or brand of food with another (includes light/lite, increased, decreased and similar words).

COMPLIANT/NOT COMPLIANT No comparison of vitamin or mineral content of the food with another food

COMPLIANT/NOT COMPLIANT Diet Claims – must not use the descriptor 'Slimming', or descriptors/synonyms that refers to slimming

COMPLIANT/NOT COMPLIANT Diet comparison claims = a NCC using the descriptor 'Diet' if it meets the condition for making that claim by having at least 40% less energy than the same quantity of reference food.

NIP requirements

COMPLIANT/NOT COMPLIANT Nutrient/Biologically active substance declared in NIP (1.2.8-6(1)(d)(iv))

COMPLIANT/NOT COMPLIANT Fats - cholesterol, saturated, trans, poly/mono unsaturated fatty acids – declare full fat breakdown: include trans, poly/mono unsaturated fatty acids (in addition fat/sat fat) (1.2.8-6(3))

COMPLIANT/NOT COMPLIANT Edible Oils/Edible Oil Spread and poly/mono unsaturated fatty acids: may be min/max (1.2.8-6(4))

COMPLIANT/NOT COMPLIANT Fibre/specifically named fibre – declare presence or absence of fibre (1.2.8-6(5))

COMPLIANT/NOT COMPLIANT Sugars and 'other' carbohydrate claims – declare dietary fibre and 0/zero if absent (1.2.8-6(5))

COMPLIANT/NOT COMPLIANT 'Other' carbohydrate claims – declare dietary fibre and 0/zero if absent (1.2.8-6(6))

COMPLIANT/NOT COMPLIANT Vitamin or Mineral: %RDI per serving declared in NIP or outside with serving size (1.2.8-9)

COMPLIANT/NOT COMPLIANT Claims on foods prepared/consumed with other food (1.2.8-13)

COMPLIANT/NOT COMPLIANT % RDI included in NIP (1.2.8-9)

NPSC requirements

This applies if making a glycaemic index, glycaemic load or diet claim.

COMPLIANT/NOT COMPLIANT If food is Category 1, NPS must be less than 1 to qualify for the claim. If food is Category 2, NPS must be less than 4 to qualify for the claim. If food is Category 3, NPS must be less than 28 to qualify for the claim.

Health Claims

1. Types of Health Claims

- ☐ High level – refers to serious disease or biomarker of a serious disease
- ☐ General Level – not refer to serious disease/biomarker (generally relate to a nutrient function)

2. HC Compliance Check

For both HLHC and GLHC (could also relate to split claims)

NOTE: Please delete or note if not applicable

COMPLIANT/NOT COMPLIANT – Specifies a Food/property of a food and a specific health effect listed in S4-4 or S4-5

COMPLIANT/NOT COMPLIANT - Specifies a population group listed in S4-4 or S4-5 (if relevant)

COMPLIANT/NOT COMPLIANT - Provides a dietary context statement (either general or specified as per S4-4 or S4-5).

COMPLIANT/NOT COMPLIANT - meets the conditions listed for each food or food property listed in S4-4 or S4-5.

COMPLIANT/NOT COMPLIANT - Modified wording? Check identical meaning – does not alter the meaning or contradict with wording of the FHR in S4-4 or S4-5.

COMPLIANT/NOT COMPLIANT - Meets NPSC (Not for STD 2.9 foods)

Note: check after initial compliance check, as if non-approved claim NPSC irrelevant

Note: according to 1.2.7-26(2) the label is required to list the properties of the food necessary to calculate the NPSC if the food relies on that property to qualify to make a health claim.

GLHC only

COMPLIANT/NOT COMPLIANT - Not in S4-4 or S4-5? – check if it's a notified self-substantiated Food Health Relationship (1.2.7-18(3b) and S6)

Further Specific Claim Requirements

COMPLIANT/NOT COMPLIANT - Claims about phytosterols, phytostanols and their esters trigger a requirement for a mandatory advisory statement (1.2.3-2)

Endorsements

COMPLIANT/NOT COMPLIANT - Endorsing bodies and criteria as per 1.2.7-23 and 1.2.7-24.

Appendix 2: Summary data showing percentage of products with NCCs and GLHCs and assessment of meeting requirements of the Food Standards Code - includes summary data from baseline 2014/15 and follow up 2016/17, with this 2022 survey

Category	% products with NCCs			Max no. NCCs per product			% NCCs meeting requirements			% products with GLHCs			Max no. GLHCs per product			% GLHCs meeting requirements		
	2014/15	2016/17	2022	2014/15	2016/17	2022	2014/15	2016/17	2022	2014/15	2016/17	2022	2014/15	2016/17	2022	2014/15	2016/17	2022
Alcoholic beverages	6	13	5	2	2	1	40	57	0	0	0	8	0	0	1	-	-	0
Breads & bakery products	37	47	41	7	8	6	56	92	73	3	1	3	8	2	1	0	67	0
Cereals & cereal products	47	79	63	10	16	18	64	14	91	7	5	9	4	4	3	0	43	56
Confectionery	28	65	21	5	7	2	56	51	73	3	3	2	1	1	2	0	0	0
Convenience foods	59	63	38	3	6	14	71	93	80	0	0	0	0	0	-	-	-	-
Dairy & dairy products	67	60	64	8	10	6	30	80	81	7	3	9	1	1	2	0	0	50
Edible oils	31	75	50	15	8	5	75	70	89	0	0	17	0	0	1	-	-	0
Eggs	0	40	50	0	5	19	-	29	95	0	0	0	0	0	-	-	-	-
Fish & seafood products	71	65	43	2	6	2	80	86	85	0	0	0	0	0	-	-	-	-
Fruit & vegetables, nuts & seeds	25	62	46	5	12	7	60	82	66	5	6	8	5	3	5	0	0	64
Meat & meat products	33	43	51	4	5	10	27	61	85	0	0	0	0	0	-	-	-	-
Non-alcoholic beverages	60	73	46	12	10	14	65	85	83	16	2	7	2	11	5	0	91	19
Sauces & spreads	39	46	46	7	5	4	55	89	80	0	0	2	0	0	4	-	-	100
Snack foods	69	79	54	3	7	14	73	81	66	0	0	0	0	0	-	-	-	-
Special purpose foods	71	74	70	3	12	20	67	79	93	17	21	40	1	7	13	0	25	56
Sugars, honey & related foods	17	67	19	1	8	2	0	41	67	0	0	10	0	0	1	-	-	0