

Plant-based and dairy products in the Nutri-Score algorithm review

July 2021

We welcome the intention of the participating countries of Nutri-Score to review and adjust the Nutri-Score algorithm. Danone has been an early adopter of Nutri-Score as we strongly believe the scheme can contribute to nudge consumers into healthier food choices.

We would like to take this opportunity to draw the Steering Committee's attention on a couple of points regarding dairy and plant-based products.

We believe that *"Plant-based drinks shall not be considered beverages for the purposes of calculating the Nutri-Score"* as currently stated in the Q&A. Drinkable Plant-based products are indeed consumed at breakfast, poured over cereals, as a snack between meals and, unlike non-alcoholic beverages, can be used in cooking and baking. They are not consumed to quench thirst.

With regard to drinkable dairy products, while we support the application of the food algorithm to these products, we have not been able to identify the rationale explaining why only those with a milk content reaching an 80% threshold are considered as food, – be it science or regulatory based. This is a singularity for "Dairy products" which are the only food group split into a food or beverage category based on a devised threshold of raw material content.

At the same time, one may acknowledge that coffee, tea- or fruit juice-based products that are partly composed of milk or plant-based drinks have a different usage and are consumed as beverages. In this specific case, it would be appropriate to consider these products as beverages for the purposes of calculating the Nutri-Score.

This is why, in line with our peers from dairy and plant-based companies¹, we would therefore suggest amending the list of products to which the algorithm's beverage modification applies, as follows:

- *Mineral water and spring water*
- *Flavoured water (with and without added sugars)*
- *Fruit juices, nectars and smoothies with or without milk and/or plant-based drink addition*
- *Vegetable juices*
- *Drinks with added sugar and/or sweeteners*
- *Teas, infusions or coffee with or without milk and/or plant-based drink addition.*

However, milk, drinkable yoghurt, flavoured or chocolate milk beverages, soups and gazpacho, and plant-based drinks are not considered beverages for the purposes of calculating the Nutri-Score.

We will be pleased to discuss the above during a meeting in case you would deem this useful and are available to provide any additional information or clarification you may need.

¹ See appendix.

APPENDIX

Drinkable dairy 'arbitrary distinction between foods and beverages' – EDA position¹

- Under Nutri-Score, some drinkable dairy products (e.g. fermented dairy drinks, probiotic drinks, flavoured milks) may be classified as 'beverages' instead of 'food', this is due to a decision to define an arbitrarily determined milk content (80%) stated in the Nutri-Score FAQ, with the intention of differentiating between 'beverages' (<80% of milk) and 'foods' (≥80% of milk).
- However, any rationale or data considered within that discussion has not been published or consulted on. An assessment of scientific publications and European definitions for “dairy products «shows that there is no consensus regarding a minimum percentage of 80% of milk² which the technical Q&A acknowledged was defined through expert consensus.
- The only binding reference defining milk products at the EU level is the EU Regulation 1308/2013³ which says that the term 'milk' and the designations used for milk products may also be used in association with a word or words to designate composite products of which no part takes or is intended to take the place of any milk constituent and of which milk or a milk product is an essential part either in terms of quantity or for characterisation of the product⁴. This shows that the current EU legislation does not define a specific threshold for drinkable dairy products but highlights that milk should be ‘an essential part’ of the dairy product. We conclude that the 80% milk threshold as proposed in the technical Q&A on Nutri-Score is not sufficiently substantiated (not in line with EDA Principle 4).
- The algorithm for beverages is much stricter than for solid foods. This results in disproportionately low scores for drinkable dairy products that are below the arbitrary 80% threshold compared to any other products, which are classified as 'foods'. This could distort the intended objective of the scheme, mislead consumers and lead to competitive disadvantage with regards to the nutritional quality of drinkable dairy products (not in line with EDA Principle 2).
- In addition to specifying that “milk must be an essential part either in terms of quantity or for characterization of the product”, the term “milk” must also include “milk products” (e.g. retentate, permeate, buttermilk, whey etc.), as already foreseen by EU Regulation 1308/2013 (see bullet point 3 above). This would take into account their nutritional value. This point should be clarified in the official Q&A.
- We would like to note that within Food Based Dietary Guidelines, drinkable milk products are included in the food category as these products are not consumed as beverages (i.e. to quench thirst or for hydration purposes). Therefore, “dairy products such as milk, drinkable dairy, flavoured or not” should not be considered as beverages for the purpose of calculating the Nutri-Score. Otherwise, as previously mentioned, this could mislead the consumers as to the true nutritional quality of these products (not in line with EDA Principle 1).
- In addition, in the Nutri-Score FAQ, “dairy products” are the only food group split into a food or beverage category based on a devised threshold of raw material content. This is a clear and marked inconsistency between the 80% milk threshold required for drinkable dairy products, and a complete absence of such a threshold for any other food categories which could be seen as misleading to consumers and unfair competition.
- To conclude, the 80% threshold of milk content currently required for drinkable dairy products to be categorised as ‘foods’ is not appropriate; it is not supported by science or existing definitions. It is also unfair from a competitiveness point of view as no other food categories have the burden of a devised raw material threshold. As a consequence, it does not recognise the nutritional quality of drinkable dairy products which can mislead the consumer.

1- [EDA guiding principles on front-of-pack nutrition labelling schemes, November 2020](#)

2- A few varied recommendations exist at national industry level

3- <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1599052846294&uri=CELEX:32013R1308>

4- Internationally these elements are present in the Codex General Standard for the use of dairy terms (CODEX STAN 206-1999) which defines: « Composite milk product is a product of which the milk, milk products or milk constituents are an essential part in terms of quantity in the final product, as consumed provided that the constituents not derived from milk are not intended to take the place in part or in whole of any milk constituent. »

ENSA Statement on plant-based products in the Nutri-Score algorithm review



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We welcome the intention of the participating countries of Nutri-Score to review and adjust the Nutri-Score algorithm.

We believe front-of-pack nutrition labelling schemes can contribute to nudge consumers into healthier food choices, and we support those schemes as long as they allow consumers to compare between products which are used in the same way and at similar consumption moments.

The specificities of plant-based products should be recognised in the algorithm, as it is currently the case in Nutri-Score, with the same algorithm used for both dairy-based drinks and plant-based drinks.

As currently stated in the Q&A, "*Plant-based drinks are not considered beverages for the purposes of calculating the Nutri-Score*" and this should be maintained. Drinkable Plant-based products are indeed not consumed to quench thirst. They are consumed at breakfast, as a snack between meals and, unlike non-alcoholic beverages, can be used in cooking and baking. They are increasingly featured in food-based dietary guidelines. In stores, they are usually placed on shelf in the dairy aisle because of the same usage which is the place where consumers look for these products. Because of their specific characteristics and use, plant-based drinks constitute, and are recognised internationally, as a separate food category, falling under specific CN sub-headings (2202 99 11 - Soya-based beverages with a protein content of 2,8 % or more by weight - and 2202 99 15 - Soya-based beverages with a protein content of less than 2,8% by weight; beverages based on nuts, cereals or seeds) that are clearly different from the other non-alcoholic beverages.

At the same time, we acknowledge that coffee- or fruit juice-based products that are only containing low amounts of plant-based drink are typically consumed as beverages, they are not poured over cereals nor used for cooking/baking. In this specific case, it would be appropriate to consider these products as beverages for the purposes of calculating the Nutri-Score. We would therefore suggest amending the list of products to which the algorithm's beverage modification applies, as follows:

- *Mineral water and spring water (score A – dark green)*
- *Flavoured water (with and without added sugars). This category is different from mineral water and spring water and cannot be scored A – dark green*
- *Fruit juices, nectars and smoothies with or without plant-based drink addition*
- *Vegetable juices*
- *Soft drinks with added sugar and/or sweeteners*
- *Teas, infusions or coffee with or without plant-based drink addition.*

We believe this modification will help clarify the classification of such products. ENSA will be pleased to discuss the above during a meeting in case you would deem this useful and is available to provide any additional information or clarification you may need.