



SUBMISSION

To: **Food Standards Australia New Zealand**

In response to: 2nd Call for submission - Proposal P1044 – Plain English Allergen Labelling (PEAL)

27 February 2020

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PREFACE

H.J. Heinz Company Australia Limited (**Heinz Australia**), Heinz Wattie's Limited in New Zealand (**Heinz Wattie's**), Golden Circle Limited (**Golden Circle**), Cerebos Gregg's Limited in New Zealand (**Cerebos Gregg's**) and Cerebos (Australia) Limited (**Cerebos Australia**) are part of The Kraft Heinz Company global group of companies. Heinz Australia, Heinz Wattie's, Golden Circle, Cerebos Gregg's and Cerebos Australia in this submission are collectively referred to as "**KHC**".

KHC is one of the world's leading producers of convenient foods for every eating occasion and has been feeding families for more than 100 years. KHC operates across the retail grocery and out of home channels, including hospitality and healthcare, and maintains #1 or #2 share in key categories including baby food, baked beans, tomato sauce and 'wet' soup.

With combined experience of over 140 years, KHC provides a positive presence in the Australian and New Zealand grocery industry. The brands KHC supplies to these markets include many household names such as HEINZ, KRAFT, WATTIE'S, GOLDEN CIRCLE, GREENSEAS, FAREX, GRAVOX, FOUNTAIN, SAXA, GREGG'S, CHEF, COTTEE'S (toppings, jelly and jams), LA BONNE CUISINE, CHAMP, GOURMET, ICE MAGIC, NURTURE, CRAIG'S, HP and LEA & PERRINS.

KHC also manufactures and/or distributes products in these markets under licence, including Eta, Complian and Rose's (jams).

Our product range includes:

infant food & snacks	frozen vegetables	baked beans	canned pasta
infant formula	fruit drinks	ketchup & sauces	soup
fruit juice	cordial	canned seafood	corned beef
jams, jelly & toppings	frozen meals	processed cheese	peanut butter
canned fruit	canned vegetables	gravies	custards
salt & pepper	tea & coffee	spices	

KHC is a member of the Australian Food & Grocery Council (**AFGC**), New Zealand Food & Grocery Council (**NZFGC**), the Australian Beverages Council Limited (**ABCL**), the Infant Nutrition Council Australia New Zealand (**INC**) and the Allergen Bureau. KHC holds positions on various working groups within the NZFGC, ABCL, INC and the Allergen Bureau. Our contributions may include preparing submissions, providing opinions and sharing information, and we strive to keep abreast of current and upcoming regulatory issues.

SUBMISSION

KHC welcomes the opportunity to comment on the second call for submissions for Proposal P1044 Plain English Allergen Labelling. In principle, KHC supports plain English allergen labelling to make allergen information clearer and more consistent for individuals with food allergies and food businesses.

KHC reviews the allergen status of over 2000 ingredients that are sourced both locally and internationally and is responsible for the correct declaration of certain food allergens as per Standard 1.2.3 on approximately 2500 labels. KHC is uniquely positioned to recognise the need and the challenges involved with achieving clear allergen labelling. Therefore, it is KHC's opinion that the food industry must have flexibility for how allergens can be declared. KHC asserts that there are number of instances where standardised allergen labelling formats will work, however, there are other circumstances where a flexible approach may be better suited. For examples of such instances, please see the following discussion.

KHC supports the concept of mandatory specified terms (required names), bolding, and allergen summary statements, however we assert that the requirements must be less prescriptive, and the transition time or stock in trade period must be unlimited to minimise the costs that will be incurred to change labels.

KHC wishes to emphasise that the changes to allergen labelling in the proposal are not a health and safety risk as the allergens are already declared on the existing packaging.

OVERALL POSITION

The current proposal is too prescriptive.

There are several aspects of the proposal that are either unclear or difficult to follow and interpret. The transition period should be extended and the stock in trade period should be unlimited.

DISCUSSION OF ISSUES

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| 1. What proportion of foods are likely to be affected by the change? |
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It is anticipated that approximately 1600 KHC products will be affected by the change.

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| 2. Is there likely to be a material difference in costs between Options 2 and 3? If yes, why? |
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Regardless of whether Option 2 or Option 3 is gazetted, all labels that declare allergens will need to be changed due to the introduction of required names and the requirement to use bolding which is not a current KHC practice.

The cost of Option 3 will be higher due to the added requirement of including a summary statement, that is not currently part of KHC label designs. Additional costs are associated with the redesign of packaging layouts on 'smaller' packages (>100cm²) to enable the bolded allergen summary statement to fit below the ingredients list. Figure 1 below is an example of where there is limited space on a label to incorporate bolded required names and display a bolded summary statement below the ingredients list. While the package does not fall within the small package definition, the label is too small to fit all mandatory labelling requirements.

While KHC understands that summary statements provide useful information to allergic consumers quickly, it is anticipated that fitting in all the required mandatory information onto smaller labels will be challenging. Option 2 reduces this challenge because it places sufficient emphasis of allergens through bolding of required names in the ingredients list. **KHC proposes** that the addition of summary statements as specified in Option 3 should be permitted on a voluntary basis, and when applied to a label all mandatory elements must be applied.

3. Is there likely to be a material difference in the benefit to consumers between Options 2 and 3?

4.	Is Option 2 or 3 sufficient for consumers to make quick and reliable assessments of foods?
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5. What would be an appropriate duration of time for stock in trade provisions?

KHC is predominantly a manufacturer of canned foods which have a shelf life exceeding 2 years. Some foods are sold seasonally (such as soups that are usually only purchased during the winter season), and some foods are manufactured seasonally (such as canned Australian pineapple and canned New Zealand fruits due to raw material supply). In these cases, under the proposed transition and stock in trade provisions, KHC will be required to update the labels in the first year of the transition period in order to meet the 12 months stock in trade conditions.

KHC strongly requests that the stock in trade provision is unlimited to allow stock that bears labels compliant with the current standard to transition out of the trade naturally. Note that as this proposal is about clarification and communication, the allergens themselves have not changed, nor

the requirement to declare them, therefore there should be no health and safety risk to extending the time to change the labels and sell the stock of product bearing the old labels.

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| 6. Do you expect to have any notification, education, permission, purchasing, record keeping, enforcement, publication and documentation, procedural, delay, labelling or any other costs associated with the proposed changes to the Food Standards Code? |
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KHC expects significant costs to be associated with the proposed changes to the Food Standards Code and that would be incurred through the following:

Education – internal training of changes to labelling regulation will be required. Training materials, documentation, forms, procedures and practices will require updating.

Purchasing – updating labels requires the use of artwork designers. New software to be built /purchased and commissioned within business that can generate labelling information in the new format. New templates and printing plates will need to be purchased from packaging suppliers and printers for the redesigned artwork.

Publication and documentation – updating documentation for customers including customer databases.

The following cost information is confidential*

***Labelling** – approximately 1600 labels at \$7500 per label including artwork design, write-off and handling costs.

As a point of comparison, for KHC, the recent Country of Origin labelling changes incurred costs in excess of AU\$5.5 million for approximately 700 products. The transitional arrangements for the Country of Origin labelling allowed KHC to minimise write off costs because foods labelled prior to the commencement date could continue to be sold to the end of their shelf life (for a long shelf life product this can be 2 to 3 years). This proposed change to allergen labelling is expected to impact more than twice the number of KHC products within Australia and New Zealand. The proposed transition time and stock in trade period does not allow for the flexibility, when compared against the Country of Origin arrangements, and will therefore result in additional costs.

Further changes to regulation such as the anticipated sugar labelling and changes to Health Star Rating (HSR) will create an additional financial burden to KHC in the future.

Delay – Large amounts of labelling changes are anticipated in the food industry which will create a bottleneck with design agencies, printers etc. This could cause delays in executing the label changes and adding cost to business through the need to air freight labels to ensure transition period timelines are met.

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| 7. Any views in relation to unintended consequences associated with Option 2 or 3. |
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REQUIRED NAMES

KHC supports the concept of mandatory specified terms (required names) especially with the required name of “gluten” rather than “cereals containing gluten”, “fish” rather than “finfish” and the generic term “tree nut” rather than the specific tree nut in a summary statement. However, there must be a degree of flexibility with how the names are mandated to be used.

In some situations

1. the generic names “tree nut” and “gluten” may be less informative than the actual name of the allergen. The flexibility to add the specific allergen after the collective term, e.g. “Tree Nut (Almond)”, in a summary statement may be more informative to a consumer.

2. additional information linked to the required name in the summary statement may improve clarity (e.g. sesame seeds)
3. singular or plural terminology may be more informative and accurate

KHC seeks clarification for whether required names can be declared in either singular or plural form. For example, if a product contained 50% cashews, using the plural form in the ingredient list would be more representative of what is in the product.

It is also noted in the second call for submissions under section 5.5.2 that “tree nut” is specifically proposed without the option of ‘tree nuts’ as it could mislead consumers into searching for more than one tree nut in the statement of ingredients. **KHC rejects** the assumption that this would be misleading. FSANZ should consider that if there are multiple tree nuts in a product the declaration in a summary statement should reflect this with the plural term “tree nuts”. Additionally, if there is one tree nut in a product, the term “tree nut” should be used to indicate to a food allergic consumer that there is in fact only one tree nut. Flexibility to use plural or singular would make reading a label clearer and would more concisely advise the consumer as to what they should look for in an ingredients list.

KHC seeks clarification for whether Brazil nut should have a capital B? Is lower case prescribed for required names?

STATEMENT OF INGREDIENTS

KHC seeks clarification for the following: -

1. Can other allergens such as celery be bolded? If so, which other allergens would be acceptable?
2. Can other foods that are of interest to consumers that may currently be bolded voluntarily (such as caffeine or phenylalanine) continue to be bolded?
3. Can the entire ingredient list be bolded but the required name be in a distinct contrasting colour?

KHC rejects the proposal to list in bold, the required name, separately, each time the allergen appears in the statement of ingredients (subsection 1.2.3—6 (3)). This proposed requirement increases the length of the ingredients list for two reasons: -

1. the same allergen is repeated multiple times
2. when text is bolded it takes up more room, which places more strain on limited label space.

KHC fails to see how this form of declaration is useful to a consumer. Two actual examples where milk appears multiple times are shown below: -

Example 1. A processed cheese-based product where milk is declared five times in the same statement of ingredients

Cheese (**Milk**, Salt, Starter Culture, Enzymes), Water, Cream (**Milk**) or Unsalted Butter (**Milk**) or **Milk** Fat, **Milk** Solids, Mineral Salts (331, 339), Salt, Food Acid (270), Preservatives (200, 235), Gelling Agent (401), Natural Colours (160a, 160b).

Example 2. A cheesy meal product, where due to milk being declared seven times, the other allergens (namely wheat and egg) are difficult to find

Cheese Sauce [Skim **Milk**, Water, Tasty Cheese (**Milk**), Butter (**Milk**), Cream (**Milk**), Romano Cheese (**Milk**), **Wheat** Flour, Cheddar Cheese (**Milk**), Thickener (1422), Salt, Spices, Yeast Extract], Pasta (**Wheat**, Water, **Egg**), Chicken, Parmesan Cheese (**Milk**), Black Pepper.

MOLLUSC

KHC does not support the absence of a definition for mollusc.

FSANZ Supporting document 1 states that molluscs are intended to have an ordinary meaning (see quote in *italics* below). By doing so, the meaning expands the type of mollusc beyond fish/shellfish to all molluscs including garden snails. This is beyond the scope of the proposal because in food handling terms, garden snails will be regarded as a new allergen. The impact to food manufacturers will be having to incorporate garden snails into all allergen management procedures and practices. This will involve the update of allergen management plans including handling, storage procedures, cleaning validation and verification and raw material reviews to incorporate garden snails.

An example of the consequence of this is that fresh produce growers and processors will now need to have allergen management plans in place for mollusc, which they are very unlikely to already have.

Supporting document 1 (page 11 - Comments on Mollusc Allergy) states that “FSANZ’s draft amendments to the Code can be found in Attachment A of the main report. The draft amendments do not include definitions for molluscs and crustacea, as the ordinary meaning of the terms are considered sufficient for allergen labelling purposes.”

FOODS FOR SALE WITH MORE THAN ONE LAYER OF PACKAGING

KHC seeks clarification for allergen declaration requirements for foods with more than one layer of packaging.

Examples of foods that have more than one layer of packaging that are sold by KHC are: -

- a package that contains meal or recipe components (where each component is packaged)
- a package that (is not a hamper) is sold as a single unit but contains a variety of packaged foods within it
- a food for retail sale that is a carton containing three different shrink-wrapped packs of labelled product
- a package that contains individual portions for servings that are intended to be used separately (individual portion packs)

The proposed variation in subsections 1.2.3—6 (1) and (2) indicates that individual portion packs (the individual units) require a statement of ingredients and an allergen summary statement. This does not align with the existing requirements where only one layer of packaging is required to bear a label (section 1.2.1—8) and the individual packs must declare the allergens (subsection 1.2.1—6(3)). Currently there is no requirement for the individual portions within an individual portion pack to display a statement of ingredients when the outer layer displays all the mandatory labelling requirements.

KHC does not support the new requirement to include an ingredient list and an allergen summary statement on the individual units within an individual portion pack, and where the outer packaging layer contains all the information.

SUMMARY STATEMENTS

KHC supports the inclusion of allergen summary statements in principle, however **does not support** their prescriptive nature namely:

1. requirement to display a summary statement on all packaged foods
2. the location immediately below and separate to the ingredients list
3. the prescriptive nature of the required names

There are likely to be a number of situations where some flexibility is needed to provide clear allergen information. Each point is discussed further below: -

1. Requiring a summary statement on smaller packages (>100cm²) with limited space on a label would be challenging. As allergens would be bolded in the ingredients list, it would not pose a health and safety risk to consumers. Please refer to Question 2 of this submission for the example provided in Figure 1.
2. Positioning the summary statement below and separate to ingredient list may not be achievable on labels that already have space restrictions due to other labelling requirements including other mandatory or advisory statements, and characterising component declarations. Can the summary statement format requirements and positioning be more flexible?
3. Can more information be added to a summary statement such as “**Contains: Sesame seeds**”? Can plural or singular terms such as “**Contains: Tree nuts**” be used when appropriate? Can additional information be provided in the summary statement such as “**Contains: Tree nuts (almonds)**”?

KHC rejects the statement in section 5.2.1 of the Consultation paper stating that mandating an allergen summary statement would indicate to consumers that if there is no summary statement, which has the prescribed reference of ‘Contains’, then there are no allergens being declared for a food. This statement does not consider other PAL statements that could have different prefixes including terminology such as “May Contain”, “May be present”. Consumers will need to be aware that there may be other statements indicating potential presence of food allergens.

PROCESSING AIDS AND SULPHITES

KHC seeks clarification around how processing aids that are allergens will be incorporated into this proposed variation, that is, when an allergen is present as a processing aid, but it not required to be declared in the ingredient list.

Should the processing aid be included in the summary statement, but use the required name in Column 3?

Example: Oat flour is added to sultanas where the oat flour’s technological purpose is a free-flowing agent and does not perform that purpose in the food for sale (i.e. oat flour is a processing aid). Would the following comply with the draft variation? Example “**Contains: Gluten (oat)**”.

For sulphites that are intentionally added, declared in the statement of ingredients (because they are an ingredient/additive), but present at a concentration of less than 10ppm, the summary statement would not include sulphites. Would this inconsistency be confusing to consumers?

PRECAUTIONARY ALLERGEN LABELLING (PAL)

Has consideration been given to the proposed requirements for summary statements and the consistency and clarity with precautionary allergen labelling statements? For example, if a food contained almond and there is pistachio cross contact can the summary statement declare “**Contains: Tree nut (almond)**” to distinguish that tree nut from the pistachio “**May Contain: Tree nut (pistachio)**”?

ALLERGEN LABELLING EXEMPTIONS

KHC seeks clarification around the absence of subsection 1.2.3—4 (3) in the draft variation. In the current Code it is not required to declare the presence of a food or a product that is derived from a food or product that is exempt from declaration. An example being vinegar derived from alcohol distilled from wheat. With the current drafting of Subsection 1.2.3—4 (4) this now appears to no

longer apply. Clarification is also sought for whether subsection 1.2.3—4 (4) in its current wording excludes derivatives by stating “Despite subsection (3)”?

CONSISTENT USE OF TERMINOLOGY

KHC recommend that for the purpose of consistency and clarity, the FSANZ website uses required names for allergens. Locations within the FSANZ website where this could apply are allergen recalls, the allergen recall statistics page, the allergen labelling page, and the food allergies page.

CONCLUSION

As currently drafted there are some inconsistencies and potentially conflicting or ambiguous elements that could result in differing understanding and application of the proposed requirements amongst the industry. The proposal is ultimately aiming to avoid such ambiguity of understanding, and therefore KHC recommends FSANZ address these issues where appropriate.

For further information, please contact:

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