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Food Standards Australia New Zealand
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SECOND CALL FOR SUBMISSIONS – PROPOSAL P1044: PLAIN ENGLISH ALLERGEN LABELLING

This submission is made on behalf of the Foodstuffs group of companies including Foodstuffs North Island Limited, Foodstuffs South Island Limited, and Foodstuffs (Own Brands) Limited. Foodstuffs (NZ) Limited acts as the Federation headquarters for the group and coordinates matters of national policy including input into public policy consultations.

The regional Foodstuffs companies are retailer-owned co-operatives that own and franchise supermarkets and grocery stores to members under the Foodstuffs trademarked brand names: New World, PAK'nSAVE, Four Square, and On the Spot. The two regional companies also have wholesale operations servicing the non-member trade, using the Gilmours and Trents brands. Foodstuffs (Own Brands) Ltd manages the national private label range comprising more than 1500 food products under a range of brands, but primarily Pams and Value.

Thousands more products require allergen declarations to be made in-store under the requirements for foods not required to bear a label.

Summary of Position on Allergen Labelling

Foodstuffs supports clear rules around allergen labelling, and use of plain English language, so customers who have allergies are clearly able to assess the risks of consuming individual products.

Foodstuffs preferred approach to allergen labelling is set out below:

- Allergens are declared in the statement of ingredients and, where practical, in a separate allergen summary statement, the latter in bold. Foodstuffs policy is to include allergen summary statements on the packaging of all private label foods, however, we only operate in the domestic market. We accept that for companies supplying the European market, which prohibits allergen summary statements, a requirement to have an allergen summary statement would be very costly as it would require separate labelling for the respective markets. On this basis we believe the allergen summary statement should be voluntary.
- We agree that allergens should be declared in the statement of ingredients in a font size no less than that used for other ingredient names. Where an allergen summary statement is provided, the boldening of allergens in the ingredient list should be voluntary. This will reduce compliance costs for us as this reflects our current practice and will significantly reduce the amount of relabelling needed. If no allergen summary statement is provided it should be mandatory to list allergens in the ingredient listing in bold.

- Where an allergen summary statement is provided, we agree it should:
 - Include the prefix 'Contains' followed by a list of allergens present
 - Be printed in the same font type and size as allergen declarations made in the statement of ingredients.
- In terms of the placement of the allergen summary statement, we agree it is preferable that this is located in connection with the statement of ingredients, but recommend brand-owners have some flexibility about its exact placement to accommodate practical considerations e.g. packaging size and shape.
- Foodstuffs supports the use of mandatory specified terms to standardise allergen labelling and reduce the potential for confusion among customers. We agree the use of mandatory specified terms should extend to foods that are not required to bear a label, exempt from displaying a statement, or sold to caterers.
- In terms of the specific proposals for mandatory terms, we support the following:
 - 'Soya' and 'soybean' be permitted alternatives to the specified term 'soy' in the statement of ingredients.
 - Clarifying that the definition for fish in Standard 1.1.2 does not apply to the declaration of allergens
 - Requiring separate declarations for: molluscs; the nine tree nuts; wheat in the statement of ingredients and allergen summary statement when wheat or wheat hybrids are present; 'barley', 'rye', 'oats' and 'spelt' in the statement of ingredients when these cereals or their hybrids are present and the cereal contains gluten; and 'gluten' in the allergen summary statement if gluten from wheat, barley rye, oats or spelt or their hybrids are present.
 - Where gluten is present, we recommend it is declared along with its source e.g. 'wheat (gluten)' or 'gluten (wheat)'.
- In addition to the above, we would support permission for the individual tree nuts to be included in the allergen summary statement as an alternative to 'tree nut'.
- The proposed changes to labelling are significant, will affect a very high percentage of processed food products, and will therefore be costly to implement. On this basis Foodstuffs supports the proposed 2-year transition period, but we prefer an open-ended stock-in-trade provision. A 2-year transition period will reduce cost by allowing brand-owners to complete label revisions as part of business-as-usual activity and will also reduce waste (and associated environmental impacts) from having to discard label stock. An open-ended stock-in-trade provision will avoid the need for product to be recalled at a nominated date, reduce cost and waste as a result of this, and balance consumer and industry interests. Most products sell through in under 2 years but having to identify non-compliant stock in the market for recall purposes would be a significant and costly undertaking.
- It is regrettable the current review does not specifically address the use of precautionary allergen warning statements such as those with the prefix "May contain...". Precautionary warnings have a legitimate role and industry and consumers are seeking greater consistency in their use and presentation. We consider the omission a missed opportunity.

Responses to questions for submitters

1. What proportion of foods are likely to be affected by the change?

Assuming Option 3 was adopted as proposed, we estimate that the changes will require changes to approximately 90% of packaged private label food products and 100% of unpackaged food products containing allergens. The total number of affected products will number in the thousands. Removing the proposal to require allergens listed in the ingredient list to be presented in bold would significantly reduce the number of our private label products that would need to be relabelled, as we already voluntarily apply allergen summary statements, but some changes would still be required to comply with the proposals for mandatory specified terms.

2. Is there likely to be a material difference in costs between Options 2 & 3, If yes, why?

Not for us. As Foodstuffs already voluntarily adopts allergen summary statements for private label food products, the main cost impact for us is the proposal to require allergens to be declared in bold in the ingredient list. This applies to both Option 2 & Option 3.

We accept that the requirement to provide an allergen summary statement will be a significant cost for some suppliers, particularly those supplying the European market.

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

We don't believe there is a material difference in benefit for consumers between the two options, however we prefer a modified version of Option 3 which would reduce our compliance costs. Under our preferred model, allergen summary statements would be voluntary, but prescribed rules would apply if they were adopted. Where an allergen summary statement was used, brand-owners would have the option of presenting allergens listed in the ingredient listing in bold. If no allergen summary statement was provided, it would be mandatory to present the allergens in the ingredient list in bold.

4. Is Option 2 or 3 sufficient to make a quick and reliable assessment of foods?

Option 2 has two parts – using mandatory specified terms and declaring them in bold. These proposals need to be considered separately. The adoption of mandatory specified terms will provide the most benefit for consumers. Consistency in the use of terms will reduce the potential for confusion. The inclusion of an allergen summary statement would also provide significant value, as it will provide a 'quick reference' for consumers, however it needs to be optional for international trade reasons. Bolding allergens in the ingredient listing has some value in making allergens stand out, but this is less important if a summary statement is provided, and, in this case, it should be voluntary to reduce compliance costs.

5. What would be an appropriate duration of time for stock in trade provisions?

Foodstuffs supports a two-year transition process for implementing the changes.

In relation to the stock in trade proposals, we prefer an open-ended provision which will allow long shelf-life products to be sold through in the normal course. This will avoid product recall for all non-compliant stock at the two-year date – a costly and wasteful process. However, if a fixed stock-in-trade period is set, then this should not be less than two years.

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?

Yes, all of the above. We will need to develop new software, input and process large amounts of data, develop support office functions, interact with suppliers, verify and maintain the accuracy of the data provided by them, and train all the relevant teams. We envisage this will be a very significant project for our private label and fresh product teams.

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

A mandatory requirement for allergen summary labels would likely have trade implications for suppliers supplying the European market and require them to undertake separate production runs for the respective markets, significantly increasing costs for those involved.