



a charity dedicated to improving lives affected by eosinophilic disorders

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ausEE Inc. Submission (Second Call) – Proposal P1044

Plain English Allergen Labelling (PEAL)

Founded in 2009, ausEE Inc. is Australia's peak national support and patient advocacy organisation representing the estimated 12,000 Australians living with an Eosinophilic Gastrointestinal Disorder (EGID) including Eosinophilic Oesophagitis (EoE).

One of the treatment options for an EGID/EoE is following an elimination diet which is individualized patient to patient but commonly can mean a diet excluding the top allergenic foods. Many individuals living with an EGID additionally live with food allergies at risk of anaphylaxis.

We welcome the opportunity to provide feedback through this second call for submissions on FSANZ Proposal P1044, Plain English Allergen Labelling (PEAL).

From the three provided options currently under consideration for Proposal P1044, ausEE supports the regulatory Option 3:

1. Maintain the status quo (i.e. no change to allergen declaration requirements).
2. Declare allergens using mandatory specified terms in bold font.
3. **Declare allergens using mandatory specified terms in bold font, with additional requirements to declare in the statement of ingredients as well as in a separate allergen summary statement**

We have consulted with our partner organisation Centre for Food & Allergy Research (CFAR) for further guidance on some concerns raised. We support their recommendation for amendments to the draft variation in order to address the following issues before approval:

1. Regarding cereals:
 - a. Spelt is a hybrid of wheat, and in the context of allergen labelling spelt should be declared as wheat, rather than as a separate required name
 - b. Barley, rye and oats must continue to be listed in the statement of ingredients, even in the absence of gluten
2. Regarding fish, crustacean and mollusc: a clear definition for each of these specified terms in the context of allergen labelling must be provided within the Food Standards Code

Please find our responses to the raised questions in the Proposal P1044 consultation below.

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

As we are not from industry, we are not in the best position to comment on this question.

However, it is our observation that only a small number of manufacturers are currently voluntarily labelling their food products exactly following the proposed format. Whilst the majority of foods on the market would require a review from the manufacturer to ensure compliance with the updated code, some changes required will only be minor as a good proportion of manufacturers do already include a separate allergen summary statement and some already declare allergens using specified terms in bold font.

We feel that this improvement to the Australia New Zealand Food Standards Code is long overdue and this change should also be welcomed by industry as they will have a mandatory guideline to follow which is overall more consistent and efficient than the current guidelines and a sufficient transition time has been suggested for this change to be applied to all food labels.

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

As we are not from industry, we are not in the best position to comment on this question.

However, we would anticipate that there is not likely to be a big material difference in costs between Options 2 and 3 as both will require food manufacturers to review their current labels for compliance and update as required to meet the mandatory standard. Therefore, the cost difference between Options 2 and 3 should not make a significant impact on food manufacturers.

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

Yes, Option 3 will substantially benefit consumers over Option 2.

The suggested change outlined in Option 3 will provide the most information on food labels that would be helpful to allergic individuals/consumers. Option 2 would only provide very minimal improvement to current food labels and really is not enough to address the many issues currently faced by the consumer. Option 3 provides additional improvements including a mandatory allergen summary statement format and placement. It is our opinion that including a mandatory allergen statement is the most beneficial of the suggested changes as it will provide consistency and clarity and makes reading and comparing food labels easier, quicker and more efficient.

4. Is Option 2 or 3 sufficient for consumers to make quick and reliable assessments of foods

Option 3 is our preferred option.

Option 2 would not provide enough improvement for consumers. Whilst bold font for declarable allergens using mandatory specified terms is a good measure, due to all the variances in packaging/label sizes, font size and colours used we don't believe this bold font for allergens will always clearly stand out on some packaging. This change alone is not enough to improve allergen labelling and allow consumers to make quick and reliable assessments of foods. Whilst we realise this option hasn't been tabled it would be further beneficial for consumers if ingredient labels were positioned in a defined box with a black border similar to the format commonly used for nutrition information panels to further address this issue.

Option 3 is preferred as the additional requirements of declaring in the statement of ingredients as well as in a separate allergen summary statement will offer the most time saving benefit and provide reliability and consistency for the consumer. This will also be helpful when reading long lists of ingredients, which is not uncommon to find on manufactured foods.

A consumer should always read the full list of ingredients before deciding on their suitability but having a mandatory allergen summary statement can reduce the need to continue reading the full list of ingredients if the allergen summary statement immediately eliminates the product as being an option for them. It is more of a risk for consumers (and manufacturers) to have this remain a voluntary statement as most consumers are not aware it is currently voluntary and that the absence of an allergen summary statement doesn't mean that the product does not include their allergen/s.

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

As we are not from industry, we are not in the best position to comment on this question.

From the consumer point of view, we do feel that the proposed transitional arrangements are appropriate which is a two-year transition period followed by a 12-month stock-in-trade period.

We hope that manufacturers will implement the updated Australia New Zealand Food Standards Code as swiftly as possible after its adoption.

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?

As we are not from industry, we are not in the best position to comment on this question.

From the consumer and patient advocacy organisation perspective there will be no additional costs incurred for us. We would welcome the opportunity to communicate any resulting updated information to our members, supporters and consumers through ausEE's social media pages including

Australian Allergy Friendly Finds and through our monthly newsletter to help notify and promote about the changes to the Food Standards Code.

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

Compliance during the transition period: It does give the consumer some reassurance to know that during this three-year period all food products will need to comply with either the current requirements of the Code, or the amendments arising from Proposal P1044 and they will not be able to comply with only part of the amendments during this time. However, it would be helpful for consumers and indeed for regulators to know when the updated Code had been applied to a label. If it was easily identifiable that it had been applied, then it could help in knowing when a label does not comply. We would anticipate and hope that the manufacturers would have practices in place to be able to advise on this when requested. It would be helpful to have an identifier code located on the product, but we do understand this would be difficult with limited space on product labels. An example of an issue is some crisps/snack products manufactured by Smith's include a 'Contains Milk' statement, which they advise when requested by the consumer for ingredient clarification where the milk is in the product that the product ingredients don't actually contain milk but they are using that terminology in place of a 'May Contain' statement assumingly due to the increased risk of contamination. We have seen multiple examples of incorrect labelling like this when it comes to the allergen 'Contains' statement which when we have reported to the relevant state Food Authority they have advised that they are not able to take action on the product because the statement was voluntary and not mandated. So, during the transition period these issues could still occur and not be able to be actioned/recalled because they are still complying with the current requirements of the Code. We do however, greatly welcome this proposed change by making a summary allergen statement mandatory and in the long run this should result in the consistent use of this statement across all foods, and that the absence of an allergen summary statement on products following the updated Code should mean there are no allergens being declared for a food. We would still encourage consumers to read the full ingredients list before consuming a product in case labelling errors have occurred.

Precautionary Allergen Labelling: We understand that P1044 is not addressing issues relating to the unintended presence of food allergens, such as the use of precautionary allergen labelling (PAL) statements, e.g. 'May be present: allergen x, allergen y...' and 'May contain'. It is our experience that only a small percentage of the community was aware that 'Contains' statements and 'May contain' or 'May be present' statements are currently voluntarily. We are 100% in favour of making a 'Contains' allergen summary statement mandatory however we feel it imperative to then move to next stages with Precautionary Allergen Labelling (PAL) to make them mandatory and regulated as well. By making the summary allergen statement mandatory, consumers may also incorrectly assume that a 'May contain' statement (regardless of if present or not) has also been well considered by the manufacturer and it's our experience that this is often not the case. The inclusion of a PAL statement will provide greater information to the consumer, so they can make a more informed choice. The current voluntary VITAL Program that assists the assessment of the food allergens present in a food due to intentional inclusion as part of a recipe and where food allergens may be present due to cross contact, should be made mandatory. The only precautionary statement to be used in conjunction with the VITAL Program is 'May be present: allergen x'. Currently there is much confusion for consumers as terminology being used varies on products from 'May Contain', 'May be present', 'May contain traces of' 'Manufactured on equipment that also processes allergen x' etc. with no clear indication

that VITAL has been applied. Further issues have arisen with the huge increase in products on the market to suit dietary choices like products labelled 'Vegan' that also contain conflicting and confusing PAL statements on them. Consumers with allergies to milk and egg products will often look to Vegan products as a safe option but without any regulation on these claims included in the Code and mandatory PAL statements consumers are being put at risk. These identified issues need to be standardised to help consumers make an informed choice and additionally provide guidance to manufacturers.

Additional Comments:

We acknowledge that Proposal P1044 will also not be considering the introduction of declaration requirements for new allergens into the Code. However, we wish to comment that we would like to see future consideration for ingredient lists to list exactly what is in a packaged food because allergies can be to any food not just to the reported most common allergens. For example, many people are allergic to corn/maize and this does not need to be declared on an ingredient panel and is often listed broadly as starch or a number. Another example is when ingredients list fruit fibre but does not list what fruit it has been derived from because they are not required to do so and therefore consumers with allergies that are not to one of the declarable allergens need to contact the manufacturer for clarification on the ingredient detail and often the manufacturer doesn't even know this because they are not required to have this information as it is not a declarable allergen. People who are allergic to less common tree nuts outside of the 9 specified tree nuts will also have to ensure they are extra vigilant about reading the full ingredient list and contacting manufacturers for clarification if required.

We would like to add that the allergen declaration requirements need to be further clarified and understood by anyone selling food, including those in the food service not just by food manufacturers. Information also needs to be communicated on the correct reporting process consumers should follow if they suspect an incorrect label or if they unfortunately have experienced an allergic reaction. Simplified 'go to' resources would be most helpful for consumers for both labelling information and the reporting issues process state by state. This information could also be provided through credible organisations including Allergy & Anaphylaxis Australia and Australasian Society of Clinical Immunology and Allergy (ASCIA), National Allergy Strategy's Food Allergy Education and Food Allergy Training websites.

We look forward to future consultations around these issues and will welcome the opportunity to provide our feedback.

Please Note: We invited our members and supporters to submit feedback directly on this consultation via the FSANZ website. The information in our submission has been based on personal experience and experiences that we have encountered or have had shared with us through our communication channels.

This submission has been prepared on behalf of our organization by ausEE Inc. and has been authorized for submission by the ausEE Inc. Management Committee.

Dated: 27 February 2020