

27 February 2020

Food Standards Australia New Zealand
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Dear Standards Management Officer

Re: Submission to Proposal P1044 Plain English Allergen Labelling

Woolworths welcomes the opportunity to provide comment on *Proposal P1044 Plain English Allergen Labelling* provided by Food Standards Australia and New Zealand.

Please find below our submission regarding the consultation paper below, which are provided on behalf of Woolworths Supermarkets (Australia) and Countdown Supermarkets (New Zealand) (collectively, "**Woolworths**").

Regards,

OVERARCHING COMMENTS

Woolworths welcomes this review as we support food labelling initiatives which aim to help consumers make informed purchasing decisions, and agrees that consumers would benefit from clear and consistent allergen labelling.

Woolworths is supportive of the Australia New Zealand Food Standards Code (**the Code**) including clear formatting requirements when it comes to allergen labelling. However, Woolworths respectfully does not support the mandatory emboldening of text, as well as the prescriptive nature of the location of the allergen summary statement for the reasons outlined in this submission. Rather, Woolworths submits that a modified option 3 be considered as part of this Proposal.

Recommendation

Woolworths recommends that FSANZ consider a modified option 3 as part of this Proposal as follows:

- mandating the inclusion of the word “contains” at the beginning of the allergen summary statement;
- mandating consistent allergen declaration terminology within the Code;
- providing flexibility with regards to the location of the allergen summary statement (within close proximity to the statement of ingredients); and
- not mandating the emboldening of allergens in the statement of ingredients or the allergen summary statement.

In addition to the comments provided below, Woolworths also supports the Allergen Bureau’s submission to this consultation paper.

SPECIFIC COMMENTS

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

Proposed option 2 and option 3 will both require packaging updates to all of Woolworths' own brand packaged products.

Approximately 3,600 own brand packaged products will be affected by the proposed change across both Australia and New Zealand. This includes both printed packaging as well as digi labels that are applied in store.

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

No, the cost will be significant for our business for either option. If emboldening is mandated, Woolworths will incur significant costs in updating our print capabilities across all stores in Australia and New Zealand to ensure that our printed in store digi labels comply. While we currently have bold text for certain fields on our digi labels, any additional emboldening elsewhere will require further testing and system upgrades. We may also need to invest in new labels if the information cannot be accommodated on the current labels due to size or legibility constraints.

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

Woolworths does not have specific data that measures the material 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?

Woolworths does not have specific data to respond to this query in respect of options 2 and 3.

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

Woolworths anticipates that compliance with this Proposal will require a significant amount of time and investment. Woolworths will not only be required to update product packaging and digi labels, but will also need to update our internal systems to accommodate these changes.

Woolworths has made, and is in the process of making, a number of recent packaging changes due to legislative requirements such as Country of Origin Labelling (“CoOL”) (AU) and Consumers’ Right to Know (NZ), and voluntary commitments such as the Health Star Rating regime (HSR). Further changes will require significant time and investment given these recent packaging updates, which should be reflected in the stock in trade provision.

Woolworths supports a stock in trade provision that allows any products manufactured and labelled prior to the Proposal’s effective date remain available for sale until the end of the relevant product’s shelf life. Such products do not pose any health or safety risks as the Code currently requires mandatory allergen labelling.

Furthermore, a sufficient stock in trade provision is necessary to mitigate food waste and the environmental impact of disposing non-compliant products and/or packaging in order to comply with this Proposal.

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 noted above, the proposed changes for both option 2 and option 3 would involve significant resources for Woolworths to implement the proposed changes.

Packaging and labelling

Woolworths agrees that the allergen summary statement starting with the word “**Contains**” should be mandatory on packaging and labels. However, we do not support the prescriptive location of this statement as proposed for option 3. For consistent consumer navigation, Woolworths suggests that the statement should be in close proximity or adjacency to the statement of ingredients. This flexibility is critical as it will allow for varying packaging sizes, designs and formats. Otherwise, mandating the location in option 3 will likely require significant updates to packaging and label sizes, designs and formats. Such updates will likely come at a material cost and potentially result in food and packaging waste.

Digi labels

The process of updating digi labels is complex. For our in store products, team members print a digi label that is applied to products such as in store bakeries items and prepackaged deli items. We are currently constrained with the amount of information that can be declared on these digi labels because they are (a) small in size; (b) have limited available space for printing; and (c) have a limited number of characters that can be printed at one time, particularly due to the amount of mandated labelling information currently required by law.

If option 2 or 3 is mandated:

- Woolworths will need to invest a significant amount of resources to update our current IT, print and system capabilities across all of our stores in Australia and New Zealand to ensure that all information on our digi labels is legible and compliant with this Proposal; and
- Woolworths may need to invest in larger labels to account for the size and legibility implications of this Proposal.

Environmental impact

Appropriate stock in trade and transition requirements are necessary to minimise the environmental impact of complying with this Proposal, such as food waste and packaging write-offs.

Education and training

The proposed changes will require education for our team members, suppliers and consumers. For example, our design teams and quality specialists will need to be trained on the new naming conventions and formatting requirements under this Proposal. In addition, consumers will need to be educated on where allergen information can be found on products, particularly in circumstances where the location has changed.

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

Australia and New Zealand are small manufacturing countries compared to the rest of the world. As FSANZ has acknowledged that there is no international uniform allergen labelling approach, mandatory updates to food labels may impact international trade. For example, there will be associated costs and likely environmental impacts if overstickering is required to update imported products to ensure compliance with the Proposal.

The EU, in particular, has mandatory declarations for certain allergens that are not captured as part of this Proposal (such as mustard and celery). It is unclear whether this Proposal will allow for these allergens to be included in bold font in the statement of ingredients to help minimise multiple packaging designs and compliance costs for products that have international reach.

Moreover, it is unclear how the prescriptive location of the allergen summary statement under option 3 will impact European trade as we understand that the EU does not allow for the voluntary repetition of allergen information outside the statement of ingredients. Specifically, section 3.5 at paragraph 27 of the *European Commission Notice of 13.7.17 relating to the provision of information on substances or products causing allergies or intolerances as listed in Annex II of Regulation (EU) No 1169/2011 on the provision of food information to consumers* states:

“Without prejudice to existing Union provisions applicable to specific foods, it is not possible to voluntarily repeat the allergen information outside the list of ingredients: or using the word “contains” followed by the name of the substance or products listed in

Annex II; or using symbols or text boxes (see Recital 47, Article 21(1) read in conjunction with Article 36(1) of the Regulation)."

(emphasis added)

ADDITIONAL COMMENTS

1. Transitional period

Woolworths proposes a transition period of four years once this Proposal is gazetted into the Code, with a stock in trade provision that allows any products manufactured and labelled prior to the Proposal's effective date remain available for sale until the end of the relevant product's shelf life.

This is to allow adequate time to:

- implement the proposed changes to our packaging;
- help minimise the amount of packaging write-offs and unnecessary food and packaging waste; and
- allow us time to test and implement new labels and/or printers for our in store digital labels.

Given that the Code currently requires mandatory allergen labelling on packaging and given that the proposed changes are designed to make labelling easier for consumers, Woolworths submits that a four-year transition period does not pose any health and safety risks.

2. Scope of this Proposal

Woolworths submits that this Proposal be limited to product packaging and product labels only, and that the requirements should not extend to in store ticketing for unpackaged foods (e.g. deli and seafood), marketing collateral or ecommerce platforms.

The extension of this Proposal to those channels would require further significant investment and resources, including third party vendor engagement, which have not been accounted for in this submission.

3. Definition of molluscs

Woolworths believes that there is some confusion around what is classified as a mollusc at law. The dictionary definition of a mollusc is "*an animal such as a snail, clam, or octopus which has a soft body. Many types of mollusc have hard shells to protect them.*"¹ However,

¹ <https://www.collinsdictionary.com/dictionary/english/mollusc>

the Australian Society of Clinical Immunology and Allergy describes molluscs as “including oysters, mussels, clams, octopus, squid, calamari, abalone, sea slugs.”²

Woolworths recommends that FSANZ include a detailed description of what is deemed a mollusc in Schedule 9 of the Draft Variation to provide clarity to manufacturers and consumers. In particular, such clarity would help us understand whether FSANZ deems garden snails to constitute molluscs under the Proposal.

4. Opportunities for clarification

Woolworths would appreciate clarity on the following queries:

1. Are the “required names” listed in Columns 3 and 4 of Schedule 9-3 of the Draft Variation strictly prescribed? For example:
 - a. Can either the singular or plural term be used, where appropriate, such as peanut or peanuts?
 - b. Can the same required name be used for both the statement of ingredients and allergen summary statement? For example, if “soybean” is the term listed in the statement of ingredients, can “contains soybean” be listed in the allergen summary statement? Similarly, if the statement of ingredients lists “almond”, can “contains tree nut (almond)” be listed in the allergen summary statement? Woolworths submits that this flexibility will provide clearer information to the consumers and minimise any confusion they may have at the point of purchase.
2. Will the “required names” under this Proposal constitute a “specific word” as defined in Standard 1.1.1-8? If not, will FSANZ include a statement similar to that of Standard 1.2.7-10 in the Proposal to mitigate any confusion, i.e. “*Nothing in this Standard is to be taken to prescribe the words that must be used*”?
3. Will there be flexibility to include additional information on packaging, beyond what is required in the Proposal, to help consumers identify allergens? For example, Woolworths currently includes the words “Allergen Advice” before its allergen summary statement on our own brand printed packaging in close proximity to the statement of ingredients. Under this Proposal, will there be flexibility to continue to include these types of voluntary statements to help consumers locate product allergen information?

² <https://www.allergy.org.au/patients/food-allergy/allergic-and-toxic-reactions-to-seafood>