

Submission: W1070

Plain English Allergen Labelling

Submitted by:

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Introduction:

Allergy New Zealand is an incorporated society and registered charity in New Zealand. Our mission is to enhance the health and well being of people living with allergies by sharing current knowledge & expertise and leading positive change through being a strong and credible national voice. With the support of a medical advisory panel and national volunteer network, we provide a range of information, education and support services nationally. Allergy New Zealand is the only national patient/consumer-based organisation representing those living with food allergies in New Zealand.

To ensure our information and services are evidence-based, we also maintain an extensive network and relationships with relevant bodies both in New Zealand and internationally. These include the Allergen Collaboration, the Australasian Society of Clinical Immunology and Allergy (ASCIA); the global Food Allergy & Anaphylaxis Alliance, and the European Academy of Allergy and Clinical Immunology (EAACI).

Overview to this submission:

Food allergies are estimated to affect around 5-8% of children and about 2% of adults. The most common triggers are egg, cow's milk, peanut, tree nuts, shellfish, sesame, soy, fish and wheat.¹ They are also known to be increasing in prevalence and have become a common childhood condition, affecting one in ten children under age 5 years.² Food allergies can cause severe, life-threatening reactions known as anaphylaxis.

There is little data currently available on prevalence in New Zealand particularly in relation to ethnicity, however there is some indication that rates are similar across all ethnic groups, if not higher in Pacific Island and Asian populations. A small NZ study surveying children attending Plunket clinics in 2009 found Maori, Pacific Island and Asian children with 38%, 50% and 48% respectively reporting adverse reactions to food compared to 38% of NZ Europeans.³ The 'Now we are Two' report from the Growing Up In NZ longitudinal study (University of Auckland) found 10% of children had been diagnosed with an allergy by age 2 years, primarily food allergies, across all ethnic groups.

Hospital and ACC data examined over the last decade indicate a significant increase in food-induced anaphylaxis; in NZ it appears a major factor is an increase in rates in Pacific people, particularly to 'seafood'. It is noted there are two papers, as yet unpublished, which could provide more details.

Significant health disparities continue to be prevalent in Maori and Pacific Island populations in New Zealand, with Māori, Pacific people, and people living in more deprived neighbourhoods, having worse health outcomes.⁵ These populations are also more likely to have poor health literacy, for example, many Pacific peoples are unaware of the services available to them through government agencies or health professionals and providers.⁶ However health literacy is a key component in enabling individuals and families to effectively self-manage chronic health conditions, including food allergies.

Management of food allergy requires avoidance of known food allergens to minimise reactions, including anaphylaxis (which is life-threatening), to accidental exposure. Accurate and comprehensible information about the presence of allergens in food and drink products is therefore central to successful avoidance.⁷ The NZ paediatric guidelines for diagnosis and management of food allergy published in 2013² include that children and young people need to be given advice on allergen avoidance by their health professional, but also state 'many families and doctors are confused by labels that warn about potential traces of an allergen' (p6).

Food allergy reactions also commonly occur outside the home, and many challenges have been identified in managing the risk of anaphylaxis to food in community settings including schools, restaurants and other food retail outlets, and increasingly in the workplace. Community exposure and lack of information from healthcare providers are factors that have been identified which place food-allergic patients at greater risk of severe or fatal anaphylaxis. Education, not only of individuals at risk, but their peers, healthcare professionals, early childhood staff, school teachers, as well as caterers, restaurant and other food retail staff, can reduce the risk of severe/fatal reactions.⁸

Many studies have found that food allergy has a significant impact on quality of life in terms of social, dietary and psychological factors⁷, as well economic.⁹ Reduced food choices, increased time spent shopping and preparing foods, and the cost of special foods, have all been identified as issues for food-allergic consumers and those preparing food for them. In addition, although restrictions apply ostensibly only to food, because food is integral to daily life, restrictions extend far beyond mealtimes. This can lead to avoidance of normal social activities which most of the population take for granted, including birthday parties and other celebrations, cultural or sporting events, travelling, and eating out whether in retail food outlets and/or with friends, extended family or work colleagues. It is also understood that the more food allergens that have to be avoided, the more restrictions and costs apply – and therefore the greater impact on quality of life.

It is understood that the purpose of this consultation is to identify the current terminology that is being used to declare allergens, and to collect evidence on whether consumers may experience difficulties identifying the presence of allergens from this terminology. FSANZ is also seeking clarification on a number of terminology issues identified from stakeholder feedback and from the W3 Review of the regulatory management of food allergens (2010)¹⁰. It is noted that the review identified a 'useful source of information' in respect to label information was the 2009 Consumer

Survey on Allergen Labelling¹¹. Allergy New Zealand was involved with the development and implementation of this survey, including distribution of the questionnaire in New Zealand.

The consumer survey identified that ‘overall.....around four in ten respondents expressed difficulty in obtaining information about which foods and ingredients to avoid....many of the reasons for this difficulty came back to the labelling information, with reports of absent, unclear or inconsistent information, or that was lacking in sufficient detail to make a more assured decision’. It also found that around 50% of respondents reported the information provided by food services (restaurants etc) was not satisfactory (p.13).

It should be noted that the survey also made clear it was ‘opportunistic’ in nature and could not be taken as representative of the general population. In respect to the 135 NZ respondents:

- more than half (58%) had a tertiary qualification
- 96% identified as NZ European *cf* 4% Maori, 2% Samoan and 5% Chinese
- 98% said they spoke English at home, and 13% used another language at home
- Over half of respondents indicated annual household income in excess of NZ\$71,300, and only 1% less than NZ\$28,800.

In contrast, the 2013 New Zealand Census¹² found:

- 74% overall identified as NZ European, 15% Maori, 7.4% Pacific, and 12% Asian.
- 25% of were born overseas, nearly half of these from Asia and the Pacific Islands.
- Around 65% of those over age 15 had no tertiary qualifications
- 38% of adults had a personal income of NZ\$20,000 or less.

Given the health disparities particularly in Maori and Pacific populations and those in deprived neighbourhoods, and resulting poor health literacy, it is suggested that the difficulties identified in the consumer survey in respect to obtaining information about which foods to avoid particularly from labelling, are likely to be much worse for a significant portion of the NZ population.

In addition, the consumer survey was of households of which one or more members had a food allergy or allergies. Respondents were therefore people who had a strong commitment to reading labels to identify either food to avoid or food safe to eat. However the survey also identified the information provided in respect to unpackaged food was not satisfactory. Those required to serve food to food-allergic individuals e.g. in hospitals, rest-homes, schools and early childhood services; those who wish to do so such as friends and work colleagues, and those required to provide accurate information on the presence or otherwise of food allergens in unpackaged foods – such as in restaurants – also need to be able to easily identify food allergens from information on labels. This group has not been surveyed.

It is acknowledged that through the work of the AFGC in establishing the Allergen Bureau and the ‘Food industry guide to allergen management and labelling’ (which recommends allergens be declared using plain English terms consistent with the Code¹⁰), that many manufacturers in NZ and Australia are already using plain English for allergen declarations. The FSANZ W3 Review also defined international regulations including that of the USA, which mandates the use of plain English for allergen declarations, and concluded that, given the indications manufacturers in Australia are already meeting these requirements, if such a regulatory approach were implemented by FSANZ it ‘may not pose undue difficulties for manufacturers to implement’.

The concern from Allergy New Zealand’s perspective, on behalf of the consumers it represents, is that the use of plain English for allergen declarations is still voluntary, regardless of industry guidelines, and is not monitored. As has been found in relation to precautionary labelling, while

guidelines exist through industry bodies, in particular VITAL¹³, they continue to be voluntary, leading to inconsistencies, a loss of trust and reduced ability by consumers to make informed choices.⁷

The issue in relation to imported food also needs to be addressed. Although imported foods are required to comply with the FSANZ Food Code including in respect to labelling, it is understood food imported particularly from Asian countries is less likely to be labelled according to Australian and NZ industry guidelines for food allergens (unless a requirement of food importers); the advice commonly given to people with food allergies in NZ (by clinicians and ourselves) is to avoid foods imported from Asian countries in general.

Summary:

It is Allergy New Zealand's view that allergen labelling in plain English is necessary to enable both self-management for individuals with food allergies and their families, and to minimise the risk of severe reactions in community settings. Health literacy has already been identified as low in the NZ population, and poor in particular populations; in the context of food allergies, this is compounded by the terminology issues already identified by FSANZ in the 2010 review of the regulatory management of food allergens. It needs to be recognised this is not just applicable to individuals with food allergies and their families, but to a much wider population who might at the least have to be able to provide accurate information about food allergen content as part of their job, or to avoid a food allergen in order to minimise risk for a family member, friend, work colleague etc.

While we recognise food manufacturers in New Zealand and Australia have made great progress in implementing guidelines including that plain English should be used for allergen declarations, our concern is that because these are not regulated there is a lack of consistency in both what food-allergic individuals are advised to look for on labels, and what is on the labels. This also applies to whether or not separate allergen declarations are used e.g. a separate declaration (from the ingredients list) is recommended in the AFGC guidelines; on the other hand the FSANZ User Guide for Warning and Advisory Statements¹⁶ states 'including these substances in a statement of ingredients would fulfil the declaration requirements' (p.13); while separate allergen declarations are no longer allowed under EU regulations 'to ensure that information is presented in a single and consistent format'.¹⁵

The lack of consistency in how food allergens should be declared adds to the confusion experienced by consumers; therefore both plain English allergen labelling, and whether or not a separate allergen declaration should be required, need to be regulated in order to ensure consistency, increase safety and therefore trust by food-allergic consumers in the food industry.

Response to specific issues:

2.1. Use of the term 'fish' in Standard 1.2.3

1. Are the
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Allergy New Zealand does not believe the current requirements are clear. Problems identified are:

i) Seafood allergy is described as most commonly occurring where it is an important part of the diet. In New Zealand it is recognised as important and also regarded as a nutritious food. With our extensive coastlines, seafood is also likely to be accessible to most; therefore it may be that allergy to seafood is more common in the New Zealand population than in other countries.

ii) In NZ adults, 'seafood' appears to be the most common trigger of food-induced anaphylaxis (data yet to be published).

iii) However there are three major groups of seafood: fish (vertebrates), molluscs and crustaceans. Each group is allergenically different. Advice to food-allergic individuals is that those allergic to one fish are usually allergic to most other fish, but not necessarily to shellfish (molluscs or crustaceans). Similarly, allergy to one crustacean (e.g. prawns) usually means that all crustaceans should be avoided, but they may be able to tolerate fish and/or molluscs.¹⁴ However those allergic to any one group are also usually advised to avoid all fish and shellfish if there is a risk of cross-contamination.

iv) Most common terms in NZ for seafood are fish and shellfish, the latter encompassing crustaceans and molluscs. As per the FSANZ consultation document, we have no evidence that consumers with allergies to fish, molluscs or crustaceans are aware or not that the term 'fish' in Std 1.2.3 clause 4 is defined elsewhere in the Code as meaning fish and shellfish. Given that 'crustacean' is listed separately in relation to the allergen declaration requirements, it is more likely that consumers assume this also covers molluscs, and therefore 'fish' means fin fish only.

v) The main impact of the inconsistency in the Code would appear to be in relation to molluscs, with lack of clarity as to the declaration of these. This could put those with allergy to mussels, squid or oysters (all popular in NZ) at some risk if it is interpreted by a manufacturer or food service operator that the Code does not require these to be declared.

vi) Another impact could also be in unnecessarily restricting food for people with an allergy to one or other of the three seafood groups i.e. able to tolerate two of the three groups providing there is no risk of cross-contamination. In particular, those not allergic to molluscs may assume any label declaring fish or crustaceans is a risk and must be avoided.

vii) It is also noted that the EU Food Information for Consumers (FIC) Regulations which came into force in December 2014, list crustaceans, fish and molluscs separately in the 14 allergens that need to be declared. The Food Standards Agency UK's Technical Guidance provides examples of molluscs as mussels, octopus and oyster.¹⁵

ix) Amending the Code to be more consistent e.g. to list the three seafood groups separately for allergen declarations, would also help clear up inconsistencies in information and advice given to food allergic consumers and others, and might help in diagnosis, data collection etc. For example, the ASCIA information sheet on food allergies lists the most common triggers as 'egg, cow's milk, peanut, tree nuts, seafood, sesame, soy, fish and wheat'¹. This uses different definitions to the Code itself (e.g. seafood instead of crustaceans).

2. Do focus and fish

Allergy New Zealand is not in a position to respond to this.

3. Is the statement ingredient

Whether or not the term 'fish' is being used to cover all seafood in separate 'contains' statements, it should be noted that the 'contains' statement is itself voluntary (albeit recommended in industry guidelines). The use of 'contains' statements also need to be regulated.

2.2 Cereal declarations

4. Are mai
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helpful i
them in

Allergy New Zealand does not have evidence that manufacturers are regularly declaring 'gluten containing cereals' in a 'contains' statement, although this is likely given the AFGC guidelines. We re-iterate that 'contains' statements are voluntary and the lack of consistency in the presentation of information is adding to confusion for consumers.

We agree with the concern identified by FSANZ that "there is potential that the use of the word 'gluten' on food labels as part of cereal declarations is diverging from the intent of the Code to alert consumers to the presence of certain cereals." We have anecdotal reports that this creates significant frustrations for those who have a cereal-specific allergy such as to wheat or oats but can tolerate other cereals containing gluten.

5. Are the
contain
gluten'

Not sure how we would be able to determine this – possibly from food recall data?

6. Are the
'gluten-
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We are aware that this is occurring particularly in the bakery industry. A label example was used in the Consumer survey¹¹ (Label 1, p. 80). It is possible this is occurring because of manufacturers' efforts to meet the increased demand for 'gluten-free' products as a lifestyle choice rather than for safety purposes. It is not helpful to those with an allergy to a specific cereal if the cereal is not identified in conjunction with the term 'gluten', as the consumer is less likely to trust the label is accurate.

7. Are you
also de
consur

We would assume this would be confusing and the consumer unlikely to purchase without seeking further advice from the manufacturer.

Allergy New Zealand is aware of the discussions in respect to defining 'low gluten' and 'gluten-free' for labelling, based on threshold levels, and does have some concern that if changes are made to regulations in this respect it could be confusing for those with cereal-specific allergies. This could lead to the assumption that 'gluten-free' is safe for those with a cereal-specific allergy; and they may not check the ingredients label.

2.3 Tree Nuts

As with fish and shellfish, many patients with peanut allergy are advised by their health professional to avoid tree nuts because of the risk of cross-contamination during manufacturing; similarly if they have one tree nut allergy, to avoid all tree nuts until further diagnostic tests have been done. It is known that there is a high risk someone with a cashew nut allergy will also be allergic to pistachio

nuts. We are also aware there is confusion among health professionals as well as food-allergic individuals as to whether coconut is a tree-nut, even though it is specifically excluded from Std 1.2.3.

8. Do food labels
a mean

We are not able to confirm this although feel it is likely given there is also confusion for health professionals e.g. ASCIA identifies tree nuts of concern as ‘almonds, Brazil nuts, cashews, hazelnut, macadamia nuts, pecans, pistachios or walnuts’¹⁷ and do not include chestnuts, hickory nuts or pine nuts (which are listed in Std 1.4.2 Schedule 4.).

Std 1.2.3 specifically excludes coconut, but this is included in Schedule 22. We are aware of patients/consumers avoiding coconut because they assume it is a tree nut, however we also understand coconut allergy is rare; and coconut in manufacturing does not have the same risk of cross contamination with other tree nuts. This confusion can lead to unnecessary dietary restrictions for those already on limited diets.

Tree nuts are regarded as nutritious food and we are aware in New Zealand that there is increasing demand for patients who have been diagnosed with a ‘nut’ allergy to have access to tests including food challenges in order to identify specific tree-nuts that they can tolerate.

Our concern is primarily that patients/consumers may unnecessarily be excluding food, due to advice from health professionals and/or what is on labels, because of the confusion over what tree nuts should be avoided and what should be declared on labels.

9. Which tree nuts
there be
implications

ASCIA identifies tree nuts of concern as ‘almonds, Brazil nuts, cashews, hazelnut, macadamia nuts, pecans, pistachios or walnuts’¹⁷ This is the list we base our advice on.

10. Are macadamia
nuts’ in
a ‘contains’
statement
Would
consumers

As above, it is noted that ‘contains’ statements are voluntary. The arrangement described above is likely to be confusing for consumers particularly if there are some tree-nuts they can tolerate.

11. Is the use of
common
foods? V

In our experience the use of unfamiliar terminology for allergen declarations is no longer as common as it once was, due to the increasing uptake of the AFGC industry guidelines. However, we disagree with the comment in the consultation paper that “It is possible that the use of such terminology is uncommon and so does not pose a risk” (p.9). In our view it increases the likelihood that a food-allergic patient/consumer would miss an unfamiliar term (such as sodium caseinate, albumin or globulin) if used instead of the appropriate plain English declaration, and be at risk of an unexpected allergic reaction.

12. Do 'contains' statements in the co-declaration

Without the benefit of an appropriate study we can only comment that allergen statements have the potential to make life easier for food-allergic consumers and those purchasing food for them, provided they are accurate. However currently there is no guarantee that the manufacturer has followed the AFGC guidelines (or used VITAL) in determining the 'contains' statement itself. We are aware that as a result allergen statements are sometime confusing in not matching what is declared on the ingredients list – e.g. that sodium caseinate may be in the ingredients list but milk declared in the 'contains' statement. This confusion adds to stress for consumers who then have to take extra time to contact the manufacturer involved, or consult with a support group to find out whether the product is safe. Occasionally this confusion leads to complaints to MPI/Food Safety.

It is noted a survey conducted for Food Standards UK in 2009-10 'Understanding the food choice of nut allergic consumers'¹⁸ found:

- The ingredients list was used by many as a reliable source of information about allergen content.
- However, most people said they relied on the allergy advice box over and above the ingredients list.
- **Most participants did not understand the voluntary nature of allergen advice boxes and some incorrectly assumed the absence of an advice box indicated the product did not contain the main allergens and was therefore safe for them to eat.**

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