



22nd January 2016

W1070 – Plain English Allergen Labelling

Summary of Questions Posed to Submitters in this Consultation Paper

1. Are the current requirements to declare fish and fish products in Standard 1.2.3 clear on what foods/ingredients must be captured by the declaration? If not, please explain the problems associated with declaring these foods and ingredients on food labels.

A&AA considers that the problem is that the current requirements are quite clear. Fish is defined for the purposes of the Code generally as **fish** means a cold-blooded aquatic vertebrate or aquatic invertebrate including shellfish, but not including amphibians or reptiles. See Standard 1.1.2 of the Food Standards Code (the Code). Therefore finfish, crustacea and molluscs are all required to be declared by Standard 1.2.3.

The problem is created by the separate listing of crustacea under paragraph (ii), evidently an uncorrected drafting error, but which would create the understandable impression that paragraph (iv), fish, was intended to apply to finfish only, and that molluscs or mollusc products need not be declared.

A&AA suggest that the standard be amended to list finfish, crustacea and mollusc separately, which would resolve the ambiguity in the standard, create certainty for consumers and potentially improve food choices for allergic consumers.

2. Do food manufacturers understand that the allergen declaration requirement for fish and fish products includes finfish, crustacea and molluscs?

A&AA cannot speak on behalf of manufacturers; however the question needs to be cast wider than just food manufacturers. The allergen declaration requirements need to be understood by anyone selling food, including the food service area. For example, the question should also ask, amongst others, “would a waiter/waitress understand the allergen declaration requirement? “

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3. Is the term 'fish' being used to refer to molluscs and/or crustacea in a 'contains' statement (even if a mollusc or crustacean ingredient is specifically declared in the ingredient list)?

A 'contains' statement presumably refers to the format recommended by the AFGC, however this should have been made clear in this and subsequent questions. This question however highlights the inadequacy of the standard where foods for sale are not required to be labelled, and the consumer must request the information from the vendor. Allergens which would appear in a VITAL 'may be present' statement need not be declared on demand in that situation where the allergen is present as a contaminant, ie not present as an ingredient, an ingredient of a compound ingredient, a food additive or a processing aid, even though that information may be appear on the catering pack. This issue needs to be addressed.

4. Are manufacturers regularly declaring 'gluten containing cereals' in a 'contains' statement, with the specific cereal/s declared in the ingredient list? Is this information helpful for consumers with a cereal-specific allergy, or does it create difficulties for them in making correct food choices?

AA&A is aware of significant "cereal specific allergies" other than wheat, including barley, rye and oats and supports the AFGC approach whereby the 'contains' statement draws the consumer attention to the presence of cereals, prompting the consumer to examine the ingredient list in detail for more specific information. This is particularly useful where ingredient lists are long and complicated, and often appear in minute type.

AA&A welcomes FSANZ's consideration of the merits or otherwise of "contains statements". Given that currently they are voluntary and non-uniform, a mandated approach based on the AFGC and VITAL presents an excellent opportunity to address potential ambiguity in allergen ingredient labelling.

Note that the use of the term cereal(s) does create some confusion. It is not defined by the Code. The Macquarie lists cereal as 1. Any gramineous plant, 2. The grain thereof, 3. An edible preparation like breakfast cereal or 4. Pertaining to grain.

The Code elsewhere would seem to regard "cereal" as the intact grain, thus for example Standard 1.1.2 states "**flours** or **meals** means the products of grinding or milling of cereals, legumes or other seeds. Consequently in Standard 1.2.4 (and S10) the use of the term "cereal", either generically or specifically, can only refer to the intact grain. Consequently the provision is of extremely limited application, and would seem to have no effect when the ingredient is a cereal product. The standard should be amended as a matter of urgency to ensure that cereal products prepared from "cereals which contain gluten" are caught unambiguously by this provision.

5. Are there instances where food labels omit the mandatory declaration for 'cereals containing gluten' because the cereal ingredients happen to contain no detectable gluten?

AA&A is not aware of any examples, but has not canvassed its membership.

6. Are there instances where manufacturers are declaring the presence of 'gluten' (not 'gluten-containing cereals') along with a declaration of the specific cereal elsewhere on the label? If so, then can you comment on why this labelling practice is occurring, and whether it is/is not useful information for consumers with a cereal allergy?

See response to question 5

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7. Are you aware of food products that declare the name of a cereal on their labels but also declare that they are 'gluten free'? Would such information be unclear to consumers with a cereal-specific allergy, and if so, how?

A&AA assumes that the question has been wrongly drafted. The question presumably refers to "a cereal normally containing gluten". Otherwise submitters might be tempted to provide a long list of "gluten free" products containing and declaring cereal products such as rice and maize.

Otherwise, see response to question 5

8. Do food manufacturers understand which tree nuts must be declared on food labels as a means of meeting the tree nut declaration requirements in Standard 1.2.3?

A&AA had not expected that manufacturers would have reason to think that only some specific tree nuts need to be declared and, that the clear intent of the standard could be ignored.

9. Which tree nuts are clinically significant for individuals with a tree nut allergy? Has there been any clinical evidence since 2010 to further clarify the types of tree nuts implicated in tree nut allergies in Australia and New Zealand?

A&AA considers FSANZ would be well placed to source such information from the FSANZ Scientific Committee consisting of allergists across Australia, relevant allergy clinics both here and overseas and food scientists with access to published research.

10. Are manufacturers declaring the presence of tree nuts using the broader term 'tree nuts' in addition to the declaration of the specific tree nuts elsewhere on the label (e.g. a 'contains tree nuts/nuts' statement, with the specific nuts listed in the ingredient list)? Would such an arrangement on a food label assist or hinder tree nut-sensitive consumers in making a correct food choice?

A&AA supports the AFGC approach whereby the 'contains' statement draws the consumer attention to the presence of tree nuts, prompting the consumer to examine the ingredient list in detail for more specific information. This is particularly useful where ingredient lists are long and complicated, and often appear in minute type. This does however rely on the 'contains' statement being correct. There have been several instances where an allergen in the ingredient list has been missed in a 'contains' statement and foods are not recalled because the 'contains' statement is not required by law.

A&AA asserts that the AFGC approach is valuable for all the prescribed allergens, but would have effect only where manufacturers are required to label products according to the AFGC system.

11. Is the use of unfamiliar or unrecognisable terminology for allergen declarations common practice, and/or creating difficulties with the identification of allergens in foods?

A&AA has not canvassed its membership on this issue

12. Do 'contains' statements assist with identifying the presence of an allergen especially in the context of less familiar or less recognisable terminology being used in allergen declarations?

The question assumes there is a uniform approach to 'contains' statements, which is patently not the case. A&AA considers that there is a need to address the diversity of 'contains' statements and 'may be present' statements, and the need to have a mandated uniform approach based on AFGC Allergen Guide and VITAL.

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A&AA takes the view that ‘contains’ statements will assist if the allergen is actually present in the ingredient list, and if consumers can be confident that the statement either follows AFGC Allergen Guide, or is mandated.

General comments

Firstly, A&AA is concerned that this consultation has neither allowed sufficient time nor has been sufficiently extensive to enable FSANZ to investigate regulatory options.

The Executive summary indicates that the purpose of this consultation is to “collect evidence on whether consumers may experience difficulties etc.” The consumers in this case would presumably be those who have either an allergy, coeliac disease or an intolerance, or in the case of children, their family. A&AA has addressed these questions to the best of its ability; however it has not been able to canvas its membership to obtain a grass-roots or “consumer” response. If FSANZ wishes to obtain more reliable and more current consumer data to properly inform its next steps, it might consider resourcing a survey either through A&AA or by other means.

Secondly, A&AA continues to be concerned about the time scale of allergen labelling (and declaration) review, and appropriate legislation amendments. A&AA notes from the 2010 FSANZ review that

In October 2006, the Australia and New Zealand Food Regulation Ministerial Council requested FSANZ to review the regulatory management of food allergens. The overall aim of the review is to determine whether, in the context of current scientific knowledge, improvements can be made to the existing regulatory approach which allows consumer choice but does not compromise the safety of allergic consumers.

The issues raised by W1070 were extensively canvassed in the 2010 review, and substantial evidence was garnered by the 2003 benchmark study and the 2008 follow-on survey. For example, the 2010 review already identified that molluscs and shellfish were allergenically distinct from finfish and recommended that

FSANZ to consider this issue further in consultation with the relevant stakeholders in Australia and New Zealand.

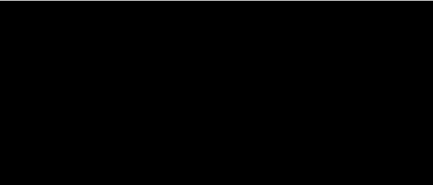
A&AA urges FSANZ to take prompt action on this occasion. This year it will be 16 years since the benchmark study, 10 years since the Ministerial Council’s request, and 6 years since FSANZ recommended it undertake further consultation. These unconscionable delays have resulted in a vicious circle of surveys followed by reviews, in turn followed eventually by consultations and requests for more evidence to inform yet another report.

Thirdly, A&AA strongly supports mandating AFGC and VITAL allergen labelling guidelines. These guidelines not only provide allergen labelling in a clear and comprehensive manner, but also provide critical information about allergen contaminants. However the advantages of the AFGC and VITAL guidelines are undermined by a widespread lack of uniformity in the marketplace, resulting in diminished consumer confidence in label information.

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Finally, A&AA appreciates the extension granted for the submission of comments, but was unable to confirm the extension with FSANZ until two days before the initial deadline. It would seem axiomatic that key players should be informed promptly of such extensions, especially where consultations run through the holiday period.

Yours sincerely,



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