



17<sup>th</sup> December 2014

Project Officer Proposal P1035  
Food Standards Australia New Zealand  
PO Box 10559  
The Terrace  
WELLINGTON 6036



Dear Sir/Madam

**Proposal P1035 – Call for Submissions – Gluten Claims about Foods containing Alcohol**

Thank you for the opportunity to comment on this proposal. The Ministry for Primary Industries (MPI) has the following comments to make.

MPI has been involved in discussions with FSANZ and Coeliac New Zealand to discuss options for how nutrition content claims about gluten on food labels of alcoholic beverages could continue. Coeliac New Zealand highlighted their concern that not permitting gluten content claims on foods containing more than 1.15% alcohol by volume presents a public health risk for New Zealanders who have coeliac disease and cannot consume gluten. Providing information about the gluten content on food containing more than 1.15% alcohol by volume will assist coeliac sufferers in making appropriate choices.

MPI is therefore supportive of an approach which permits labels on alcoholic beverages being able to communicate the presence or absence of gluten. We are of the view that FSANZ could explore more than one option for achieving this outcome, and we have provided one further option for consideration in this submission.

***FSANZ's proposed option (with variation suggested by MPI)***

Under the amendment being proposed by FSANZ, we note that Clause 3 of Standard 1.2.8 exempts beverages containing 0.5% alcohol by volume or more, and other alcoholic beverages standardised in Standards 2.7.2 to 2.7.5, from the requirement for the label to include a nutrition information panel (NIP). However, if a nutrition content claim is made about such foods, this exemption no longer applies, and a NIP must be included on the label.

The provision of information on the presence of gluten is seen by MPI as providing information to persons who are required to have a gluten free or low gluten diet for medical reasons. This information assists in the management of a public health risk and is not viewed by MPI as information promoting the benefit of a product.

MPI is of the view that the requirement for alcoholic beverages which carry a 'gluten free' or 'low gluten' claim to include a NIP on the label could be seen as a potential disadvantage or barrier for those manufacturers producing gluten free alcoholic beverages. Not only would they need to have a NIP and declare the gluten content as 'zero', they would also need to disclose other components such as the energy, carbohydrate and sugar content of their product (which other alcoholic beverages are not required to do). This may create an unfair playing field and appears onerous for a small subcategory of foods that are otherwise exempt from including a NIP on their label (that being alcoholic beverages standardised in Standards 2.7.2 to 2.7.5).

MPI therefore recommends FSANZ consider an exemption for alcoholic beverages with gluten free/low gluten statements from requiring an NIP (where they would otherwise not be required to). MPI would support such an exemption as we are of the view that declaring the presence or absence of gluten is a special case (i.e. an allergen declaration), rather than a claim helping to promote the product. For carbohydrate and energy claims on alcoholic beverages, we continue to support the current requirement for a NIP.

### **Alternative option**

An alternative option is that the exemption within clause 4 of Standard 1.2.3 (where products standardised in Standards 2.7.2 and 2.7.5 do not need to declare the presence of cereals containing gluten and their products) could be removed. If this exemption was removed, the result would be that all alcoholic beverages would need to declare the presence of gluten but this would not generate a mandatory requirement for an accompanying NIP. Products which do not declare the presence of cereals containing gluten and their products would be taken to be free from these substances (as is the current case for labelling of all other foods). This approach would provide the allergen information without the need for an NIP.

MPI encourages FSANZ to seek industry's view on mandatory allergen labelling for all alcoholic beverages, versus mandatory NIP requirements (when a nutrition content claim is made). The advantage of this approach would be consistency with labelling of all gluten free foods across the Food Standards Code.

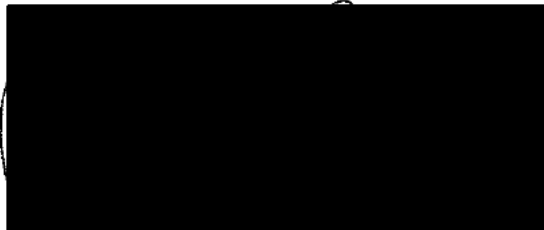
### **MPI comment on gluten declarations**

MPI would also like to raise a separate point in relation to gluten declarations, for FSANZ to note and consider at an appropriate time.

MPI is aware that some manufacturers declare "contains gluten", or "may contain (traces of) gluten" sometimes following an "allergy information" statement. We understand that the intention of such statements about gluten is to meet the mandatory declaration requirements under Standard 1.2.3. However, technically such statements fall under the definition of Nutrition Content Claims and the requirements under clause 11(7)(b) of Standard 1.2.7 (and Standard 1.2.8). Although Standard 1.2.7, clause 5 states that standard 1.2.7 does not apply to declarations required by the Act, Standard 1.2.3 requires declarations about "*cereals containing gluten and their products, namely, wheat, rye, barley, oats and spelt and their hybridised strains other...*". This does not include explicitly include 'gluten' itself, unless it is intended that 'gluten' is captured by the term 'products'.

If FSANZ agrees that a "contains gluten" statement could be meeting the requirements of Standard 1.2.3 as gluten is captured by the term 'products', we recommend the Food Standard Code clarifies the requirements when declaring the presence of gluten for the purpose of meeting standard 1.2.3. A solution could be to amend standard 1.2.3 by including 'Gluten or' before "Cereals containing gluten...", or clarifying that gluten is captured by the word 'products'. The addition of a Note in Standard 1.2.7 would also help clarify this situation.

Yours sincerely



**Manager Food Science and Risk Assessment**